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CONTENTS

Immigration Policy—Who Gets in and Why?	*Elliott Abrams & Franklin S. Abrams*	3
The Intelligent Citizen's Guide to Inflation	*Robert M. Solow*	30
Unemployment and the "Dual Labor Market"	*Peter B. Doeringer & Michael J. Piore*	67
OMB and the Presidency—the Problem of "Neutral Competence"	*Hugh Heclo*	80
The Photocopying Revolution and the Copyright Crisis	*Louise Weinberg*	99
Ideas and Proposals: The Los Angeles Affliction: Suggestions for a Cure	*Ward Elliott*	119
Current Reading		129
Contributors		134

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Immigration policy—who gets in and why?

ELLIOTT ABRAMS & FRANKLIN S. ABRAMS

In 1965, a major reform which had been urged by liberals for decades made radical changes in American immigration policy. The passage of the Immigration and Nationality Act of 1965 was hailed as a great advance in American social policy, for it abolished the discriminatory "national origins quota system" which had so heavily favored Northern and Western Europeans. The 1965 reform was proclaimed as both the most humanitarian and the most sensible immigration policy in the nation's history, for it asked of the alien not what was his place of birth, but what family ties he had to America or what skills he possessed. The reuniting of families and the admission of needed workers were the keystones of the new policy.

After the passage of the bill, the attention devoted to the immigration issue declined immediately, and the matter was removed from the agenda of pressing reforms. It may therefore come as a surprise to many that while the new law has indeed, in many ways, proved more sensible and more humane than its predecessor, and has eliminated discriminatory quotas, it has also produced a number of entirely unanticipated results, some of them directly contrary to the intent of its authors.

It was probably not foreseen, for example, that the population

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gain from immigration would come to equal a figure one-third as high as natural population growth (excess of births over deaths). It was probably not expected that immigration from Asia would rise nearly 500 per cent. Nor was it foreseen that so many Asian professionals would enter the country that, today, there are more Filipino doctors in America than there are black doctors. Since the 1965 Act assumes there will be great difficulty choosing between Eastern Hemisphere applicants, while all Western Hemisphere applicants will be accommodated, it was clearly not anticipated that the reverse would turn out to be true: Today the supply of visas meets the total demand from Europe, Asia, and Africa, while the demand far exceeds the supply for North and South America. Intent on reuniting families, the supporters of the bill would undoubtedly have been surprised to learn that the current 30-month backlog in Western Hemisphere visas means a husband and wife may be separated for that long a period. Least of all would supporters of the bill have expected their handiwork to have given impetus to an unprecedented wave of illegal immigration.

Now, 10 years later, the effects of the 1965 reforms are becoming clear, although significant areas of debate remain.

How many immigrants?

For any country trying to establish, or to reform, an immigration policy, the very first question to ask is how many immigrants should be admitted. Prior to 1921, no overall numerical limitation was placed on immigration to the United States, and the statistics reflect this "open door" policy: Between 1881 and 1921 alone, almost 25 million immigrants entered this country.

The 1965 legislation, like the Acts of 1921, 1924, and 1952 which preceded it, set an overall limit on immigration. In 1965, the total was set at 290,000: 170,000 for the Eastern Hemisphere and 120,000 for the Western Hemisphere. Exempt from the numerical limitation, however, are immediate relatives of American citizens (minor children and spouses of citizens, and parents of citizens over 21), of whom more and more arrive each year—last year, over 100,000. Thus, total immigration in 1973 reached 400,000.[1]

There are, of course, numerous theories on the basis of which the numerical limit might be determined. It may be defined as a percentage of the total population, or of the population growth of the United States; it may reflect growth in employment, or in unemploy-

[1] All annual figures given are for fiscal years.

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ment; it may be related to population or population growth in the world at large.

But the concentration of the authors of the 1965 Act on abolishing discriminatory quotas was apparently so great that little attention was paid to the rather crucial question of setting a numerical ceiling. In fact, the 170,000 and 120,000 figures are derived from none of these theories, nor from any other. They are simply pulled from the air, and bear no relationship to any principle at all. The 170,000 figure, a Senate report notes, "is believed to be the present absorptive capacity of this country." How our "present absorptive capacity" was determined is nowhere explained. In 1900, the population of the United States stood at 82 million; in the ensuing decade, 8.8 million immigrants were admitted, and by 1910 only 60 per cent of the populace were native-born of native-born parents. Clearly, then, definitions of "absorptive capacity" may differ widely.

If the 1965 Act fails to relate immigration to population growth, the link has not been ignored by the Zero Population Growth (ZPG) enthusiasts. Ironically, in the past one of the strong arguments for immigration was its contribution to population growth, long considered a key to economic expansion. Today, however, with immigration reaching over 400,000 a year, the population control advocates claim that the ceilings we have set are too high.

Their case may be stated simply: The proportion of total population growth accounted for by immigration continues to rise, and now approaches one fourth. The more immigration there is, the higher the rate of population growth, and the higher the population will be.

The ZPG argument is, on one level, clearly correct: Immigration adds to the population. The argument is, however, of dubious merit as a basis for American immigration policy. It ignores the fact that *immigration constitutes a significant proportion of total population growth not primarily because of an increase in immigration, but because of a decrease in the rate of natural population growth.* In 1970, the 373,000 immigrants represented 14 per cent of the total population growth of 2.6 million. In 1973, the 400,000 immigrants represented 21 per cent of the total population growth of 1.9 million. As the total increase in population fell from over 2.5 million to under two million, immigration, remaining nearly constant, obviously came to represent a higher percentage. As the U.S. birth rate continues to drop—it has now fallen below the replacement rate of 2.1 children per couple—the proportion of population growth accounted for by immigration will continue to rise: If we reached ZPG in-

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ternally, immigration would account for 100 per cent of population growth, no matter how few immigrants were admitted. The rising proportion of growth which is accounted for by immigration should actually be a source of comfort to the ZPG forces, for it reflects a lowered birth rate at home, and a lower overall total increase in the population.

There is, of course, no disputing the fact that immigration causes the population to grow. However, the magnitude of the increases attributable to immigrants and their descendants is lower than is often thought. The immigrants who arrive each year constitute an addition of one fifth of one per cent of the population. The Census Bureau calculates that if, as appears likely with the present birth rate, the population in 2000 reaches 266 million, only six per cent of it (16 million people) will be composed of immigrants from the period 1969-2000 and their descendants. And a study conducted by Princeton demographer Ansley J. Coale for the President's Commission on Population Growth and the American Future concludes:

> Somewhat surprisingly, continued migration at current levels does not greatly modify the fertility required of the American population to bring growth to a halt, nor does it imply very consequential continued growth should fertility decline to precisely the level required for zero growth *without* immigration. If we decide to limit further growth of the population of the United States it is *not* necessary to abandon the American tradition of welcoming immigrants (emphasis in original).

The Commission itself, exquisitely torn between the desire to limit population growth and the recognition that immigration has been of great value to America, opted in its report for a compromise: immigration, but no more than we now have.

The simple fact is that there is no scientific or objective way to determine how many immigrants should be admitted or can be "absorbed" by the United States. In view of this fact, and in view of the evidence that immigration has but a marginal effect on total population figures, Congress was correct in deciding in 1965 that humanitarian, economic, and political considerations, and not dubious Malthusian presumptions, should determine American immigration policy.

Choosing the immigrants

Though the numerical totals in the 1965 Act are arbitrary, the need to set some limit is, for the United States today, incontrovertible. America's wealth, political freedom, and economic oppor-

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tunities would probably attract more immigrants than even the most hospitable native is likely to welcome. The next question which faced the reformers in 1965 was, accordingly, how to choose among the would-be immigrants.

From the time immigration was greatly limited, in 1921, until 1965, the "national origins quota system" was in effect. Based on a melange of bigotry and pseudoscientific racial theories, the policy had been to admit Northern and Western Europeans and to exclude all but a few immigrants from any other region outside our own Hemisphere. The House report accompanying the Quota Law of 1924 explained:

> If . . . the principles of individual liberty . . . [are] to endure, the basic strain of our population must be maintained and our economic standards preserved. With full recognition of the national progress we owe to the races from southern and eastern Europe, we are conscious that the continued arrival of great numbers tends to upset our balance of population, to depress our standard of living, and to unduly charge our institutions for the care of the socially inadequate.

This policy was effectively implemented by laws which determined each country's quota by reference to the composition of the U.S. population. Under the 1952 statute, the quota was 65,631 for England, 5,635 for Italy, 308 for Greece, and 100 each for most Asian countries.

While the 1921, 1924, and 1952 quota laws had most successfully implemented the policies which produced them, support for those policies eroded steadily after the Second World War. The desire for increased population and for admission of workers with needed skills, compassion for the plight of European refugees, and diminishing support for the view that our "basic strain" had to be protected combined to produce a tangle of public laws, new regulations, and private bills designed to create paths through and around the national origins quota laws. Although the national origins system was theoretically the heart of American immigration policy until 1965, by the 1950's two thirds of all immigrants were being admitted under exceptions to it. The quota law had become an anachronism, so effective in implementing the beliefs and policies of another era that reactionaries rallied round it with the same passion liberals devoted to attacking it. In the end, it took the irresistible pressure of the 1964-65 Great Society tide to bring about a change.

The broad outlines of the new policy were a matter of general agreement. "Reunification of families is to be the foremost con-

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sideration," the Senate report stated, meaning that close relatives of American citizens and aliens admitted for permanent residence would be given priority. In addition, needed workers were to be admitted: "aliens who are members of the professions, arts, or sciences, and . . . skilled or unskilled laborers who are needed in the United States." Finally, provision was to be made, continuing the American tradition, for the admission of "certain refugees."

Once it was decided to give priority to relatives and to workers needed by our economy, the first question that arose was how much priority to give to each. The 1965 law gives special treatment to the very closest relatives of American citizens: Parents of citizens over 21, and spouses and unmarried minor children of citizens, are admitted without numerical limitation. This priority is difficult to criticize, but beyond it the choices are less clear.

A dual system

For the Western Hemisphere, it was thought that such choices could be avoided. Historically, there had been no limitation placed on Western Hemisphere immigration, and the national origins quota had not been applied. Continuation of this treatment was included in the early proposals for reform in 1965 and the Administration backed this position as being part of our "Good Neighbor" policy. The assumption was, simply, that no numerical limitation was necessary. Attorney General Katzenbach told the House subcommittee hearings that "if you look at the present immigration figures from Western Hemisphere countries there is not much pressure to come to the United States from these countries. There are in a relative sense not many people who want to come." Therefore, he concluded that "there simply is not a real immigration problem with respect to the Western Hemisphere countries. It is not a practical problem."

How the Attorney General reached his conclusion is unknown. Statistics were available showing that immigration from the Western Hemisphere had averaged about 160,000 annually in the years 1961-65, and the high birth rates and comparatively low economic opportunities prevailing in much of the Hemisphere are not state secrets. Despite Katzenbach's assurances, the Congressmen and Senators were sufficiently worried to tack on the numerical ceiling of 120,000, effective after a three-year transition period, before passing the bill.

Since the original reform proposals had been drawn up with no

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numerical limit for Western Hemisphere immigration, and since in any case the supply of visas was expected to exceed the demand, no attempt was made in the 1965 Act to give relatives preference over workers, or to distinguish between closer and more distant relatives or between workers of varying levels of skills. Applicants are simply granted visas on a first-come, first-served basis. However, in order "to protect the American economy from job competition and from adverse working standards as a consequence of immigrant workers entering the labor market," a "labor certification" program was established. Under it, a Western Hemisphere applicant who will be employed in the United States can obtain a visa only after the Labor Department certifies that there are not enough U.S. workers "able, qualified, willing, and available" to perform the job he is seeking, and further that the alien's terms of employment will not adversely affect prevailing wages and working conditions. But in accord with the goal of reuniting families, the labor certification is not required of parents, children under 21, or spouses of citizens or permanent resident aliens.

Unlike the Western Hemisphere, the Eastern Hemisphere had since 1921 been subject to numerical limitations, and in most countries demand had regularly exceeded supply. Therefore, the problem of selection had to be faced, and Congress has made its choices clear.

Within the limit of 170,000, immigrants are selected not on a first-come, first-served basis but through a system of seven preference categories, each of which is limited to a certain proportion of the visas available. First preference is given to unmarried sons and daughters over 21 of U.S. citizens, and this class is accorded not more than 20 per cent of the visas. Second preference is given to spouses and unmarried children (of any age) of aliens lawfully admitted for permanent residence, and this class is also allotted not more than 20 per cent of the 170,000 visas available, plus any available but unused numbers in the first preference category. Third preference, limited to 10 per cent of the visas, is granted to members of the professions and to scientists and artists of exceptional ability. Fourth preference, limited to 10 per cent plus any unused numbers from the first three preference groups, goes to married sons and daughters (of any age) of U.S. citizens. Fifth preference is granted to brothers and sisters of U.S. citizens, and is limited to 24 per cent plus any unused numbers from the first four groups. Sixth preference is for skilled and unskilled workers needed in the U.S., and is limited to 10 per cent of the visas each year. Seventh

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preference is for refugees, and is limited to six per cent of the visas. Finally, there is a non-preference category utilizing any unused numbers for any other applicants. There is in addition an overall limit of 20,000 visas for any one country. For third and sixth and non-preference visas, the same labor certification requirement exists which is applied to all Western Hemisphere immigrants (with those exceptions already mentioned) who will join the labor force.

It should be noted that there is no kick-down of unused numbers into the occupational preferences, thus limiting visas available to workers to only 20 per cent of all those available, plus any remaining for the non-preference classification. That is, only if all the preferences for relatives as a whole are undersubscribed will workers be allowed more than the 20 per cent allotted to third and sixth preferences. Actually, the lack of demand for relatives' visas has allowed substantial spill-down into the non-preference category, making many more visas available for workers.

Preferences and priorities

This preference system is not at all illogical, but many of the choices it makes may be questioned. To begin with, one might argue that a disproportionate emphasis is put upon relatives (who receive 80 per cent of the available visas) at the expense of needed workers (who receive only 20 per cent); but no "scientific" judgment can be made on this question, and a strong case can be made on humanitarian grounds that the goal of reuniting families should indeed come first.

Within the occupational categories, the priority given to third-preference workers (professionals—often doctors—and scientists and artists of exceptional ability) over sixth (skilled and unskilled workers), seems obvious, but it has, indirectly, come under considerable attack. The advantage of the present system is clear: It provides the United States with highly trained new workers in areas in which their presence is needed. Further, it does so at relatively little cost to us, since most of these individuals will have been trained elsewhere. There is an obvious logic to the desire to admit, among workers, the more intelligent over the less intelligent, the skilled over the unskilled, those with the most to contribute over those with less.[2]

[2] An interesting sidelight, indicating the great complexity of the present selection system, is that, ironically, in practice there is in most cases no "preference" of third over sixth preference categories, since each is allotted 10 per cent of the 170,000 total. In most Eastern Hemisphere countries, all preference categories

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On the other hand, it can be argued that this policy injures many Americans by lessening the incentive to develop the skills of our own manpower. The Population Commission, for example, concluded:

> A readily available source of trained professionals from other countries may slow the development of domestic talents and the expansion of training facilities. While this importation of talent may be economical for the United States, it is not fair either to the foreign countries that educate the professionals or to our own citizens—particularly those minority groups and women whose access to professional training and economic advancement has been limited.

The Commission pointed out that there are now, in this country, more Filipino than black doctors; of similar import is the fact that in some recent years more foreign-educated physicians were admitted to the United States than were graduated from American medical schools.

There is no question that the Commission drew attention to a real problem; however, the logic of its position leads to a rather bizarre result: Is it proposed that we determine those areas in which the United States badly needs trained professionals, and then carefully exclude all immigrants with the relevant skills?

The other problem referred to by the Commission, the alleged harm done to foreign countries by the so-called "brain drain," is a separate subject which we cannot go into here. It should be noted, however, that complaints from other nations on this score are rare; in the case of underdeveloped countries, this may reflect their governments' awareness that they often have more skilled manpower

are undersubscribed, and therefore visas are immediately available in any category. However, a country's 20,000 limit may be reached after accommodating the applicants from the higher preference categories alone. For example, from 1965 to 1973, the tremendous number of Italian brothers and sisters of American citizens (fifth preference) totally exhausted Italy's 20,000 visa limit before the sixth preference category was even reached. For those eight years, not one single visa was available for a non-professional Italian worker. Similarly, in the Philippines, the great number of doctors, nurses, and other professionals (third preference) exhausts the country's 20,000 limit, and no visas are available for any lower category.

The complexities of the system may lead, however, to a contrary result: Lower-preference applicants may sometimes find themselves in a better position than those in higher-preference categories. For example, the demand for third-preference visas cannot be satisfied because of the worldwide limit of 17,000 visas in this category, and there is now a 10-month delay in getting a third-preference visa. On the other hand, sixth-preference visas are immediately available. The difference is largely attributable to the tens of thousands of Filipino professionals registered for third-preference visas, who use up most of the world-wide total because their applications were filed earliest. Thus a maid might get a visa immediately while the surgeon for whom she works faces almost a year of delay. In such a situation, the effect of our selection system is precisely the opposite of that intended by its authors.

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than their economies can effectively employ. Be that as it may, it is important to recognize that the selection of the best-trained applicants—an obvious goal for any immigration system—can easily clash with other domestic or foreign policy goals.

The workings of the family preference categories raise complex issues of a somewhat different kind. It must be remembered that the immigrant of today is, after the requisite five years, eligible to become a citizen, and may then bring to the United States his brothers and sisters and their families, under the fifth preference category, and his parents as immediate relatives. Resourceful immigration lawyers have devised a more roundabout but much quicker means to this same end: The new immigrant brings over his retired parents as non-preference immigrants (who, since they are not seeking work, do not need a labor certification), and the parents, upon arrival, can then bring over all their unmarried children of any age as second preference immigrants. Even with clerical delays, this process should not take more than a year, versus more than five years if the immigrant's attorney is not familiar with the intricacies of the immigration laws.

At 1968 hearings on the operation of the new Act, Congressman Moore (D.-W.Va.) asked, "Don't we see now with the operation of this law that immigration per se begets immigration?" The answer is clearly yes, and we may expect to see a continuation of the rise in the number of second and fifth preference immigrants which was recorded in 1973. Similarly, the steady increase in the number of immediate family members (who are not subject to numerical limitation) is neither surprising nor likely to halt.

Many of the potential problems in the preference system established for the Eastern Hemisphere have been minimized by the moderate number of applicants. Since the overall supply of visas usually meets demand, at present almost all qualified applicants are being admitted—unless, of course, they are excludable for reasons such as disease, subversive activities, or (like John Lennon) a criminal record. Meanwhile, in the Western Hemisphere, where demand for visas far exceeds the supply, there is no procedure available for choosing between applicants. This combination of excess demand and lack of selection procedure has produced chaos.

The Western Hemisphere: disorder and delay

If only 120,000 people each year applied for visas from Western Hemisphere countries, the system established by the 1965 Act

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would work. The alien would apply for a visa, and after some paperwork (obtaining a labor certification or an exemption therefrom based on family relationship), he would be admitted a few months later. In fact, however, the delay in getting a visa is now nearly two and a half years, meaning that 300,000 more people have applied for visas than the State Department, doling them out at the mandatory rate of 120,000 Western Hemisphere visas per year, has been able to process.

While the cause for the delay is obvious—more applicants than visas—the great leap in the number of applications is not really understood. Demand for visas is simply much higher than virtually anyone had predicted. Katzenbach, for example, told various committees that Congress need not fear treating the new Caribbean nations of Jamaica and Trinidad & Tobago as full-fledged independent nations, since total immigration from them would only be "perhaps as high as 7,000 . . . as an outside figure." In 1973, 7,097 immigrants were admitted from Trinidad & Tobago, and 9,538 from Jamaica, more than doubling Katzenbach's estimate. And this was the *lowest* combined figure for the two countries in any year since the 1965 Act went into effect. Indeed, for several years Jamaica had the highest emigration rate (emigrants per thousand population) of any country in the world.

Greatly increased Jamaican immigration to the United States is easily explained by the fact that the opportunity for large-scale immigration did not arise until Jamaica became independent.[3] But this offers no clue as to why demand for visas has increased all over South and Central America in countries which until recently were permitted unlimited immigration to the United States. No one really knows the answer, but a number of possible explanations may be cited. Increasing educational levels and urbanization mean that more people become familiar with the United States and its standard of living. A somewhat higher standard of living abroad means that many more people can afford the trip to the U.S., especially since until recently air fares had been declining. High birth rates have led to explosive population growth, with concomitant unemployment and underemployment. All these trends have accelerated, and fed upon one another, in the last 10 years. The end result is that many more people from the Western Hemisphere wish to come here than the law at present is willing to admit.

[3] Colonies are allotted only 200 visas per year each; the most heavily oversubscribed areas in the world are the remaining British colonies in the Caribbean, and Hong Kong.

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Delay means distortion

The resulting two and a half year delay in the reuniting of a Western Hemisphere family is clearly contrary to the key goal of the 1965 Act. Similarly, a two and a half year delay in permitting the entry of needed workers destroys the responsiveness of the Act to the conditions of our economy.

Some less apparent effects of the law are equally significant. First, no distinctions whatsoever are drawn among applicants, an acceptable policy when all are admitted, but a foolish one when all are not. Thus, close relatives receive no preference over workers, and highly skilled or professional workers are admitted no sooner than the unskilled—doctors get no preference over maids so long as there is some degree of shortage of both. One fine example of inequity in the system, certainly unintended by Congress, results from the section of the law providing, for the Western Hemisphere, that parents of U.S. citizens are exempt from the labor certification requirement. Thus, a woman without any skills, whether married or not, may establish her right to a visa if she gives birth while in the United States. She is then the parent of an "American citizen," exempt from the labor certification requirement and thus entitled to a visa. Such "baby cases" have now come to take up a noteworthy proportion of the 120,000 visas available in the Western Hemisphere.

Second, a two and a half year wait between job offer and ultimate admission is most likely to deter those who are doing best at home due to their ability and training. Thus, we may well be discouraging some of the prospective immigrants whose talents are greatest and whom we would most like to admit.

Third, the backlog gives rise to a substantial amount of illegal immigration. In order to obtain a labor certification, the alien, unless a professional, must have a specific job offer from a prospective employer. The alien's qualifications for his particular job, the lack of Americans in that job category who are "able, willing, qualified, and available," and the effect of the alien's proposed terms and conditions of employment must all be approved. Obviously, it is not easy for an alien to learn of a job opening, and to obtain an offer for it, while abroad. Still less likely is it that the prospective employer will be willing to file a set of papers with the Labor Department—and possibly haggle with them over job requirements and wages—on behalf of an alien whom he has never met, for a job to be taken two or three years later when the alien is finally admitted. As a result, Western Hemisphere aliens by the thousands enter the United States with visitors' visas forbidding them to work, and then

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seek and obtain job offers and illegally fill those jobs while awaiting their immigrant visas. When the visa is available, they return home briefly to receive it from the consul, and are back at work here in the United States soon after. It therefore appears that the requirement that the alien have a specific job offer (rather than simply be qualified in a job area known to be short of personnel) and the long delays in obtaining a visa combine to make illegal immigration and employment helpful if not necessary steps in the pursuit of permanent residence in the United States. In testimony to the House subcommittee in 1973, the head of the State Department's Visa Office told Congress of "the impetus which this law has provided for efforts . . . to minimize its effective impact through fraudulent immigration," and explained that "the primary effort has been to obtain nonimmigrant visas with the hope, indeed the intent, to remain in this country if the visa is issued." Until the law is amended, this situation will not change.

The demographic profile

While introducing delay and disorder in the handling of Western Hemisphere immigration, the 1965 reforms have had only slight impact on the patterns of either national origin or occupational skill of the immigrants. In 1973, about 173,000 immigrants arrived from this Hemisphere. By far the largest number—70,000—came from Mexico, and Cubans constituted another 24,000.[4] The following lists show the top 10 countries, and the number of immigrants from each, for 1965 and 1973:

TABLE I. *Western Hemisphere Immigration: 1965, 1973.*

1965		1973	
Canada	38,327	Mexico	70,141
Mexico	37,969	Cuba	24,147
Cuba	19,760	Dominican Republic	13,921
Colombia	10,885	Jamaica	9,963
Dominican Republic	9,504	Canada	8,951
Argentina	6,124	Trinidad & Tobago	7,035
Ecuador	4,392	Colombia	5,230
Haiti	3,609	Haiti	4,786
Costa Rica	2,911	Ecuador	4,139
Brazil	2,869	Guyana	2,969

[4] Almost all Cuban immigrants were already here as refugees and adjusted their status to that of permanent resident. The large number of Cuban adjustments in recent years has greatly reduced the number of visas available for the rest of this Hemisphere. It is often argued that these adjustments should not be counted against the authorized Western Hemisphere total of 120,000, since the Cuban refugee program was established under separate legislation in 1966. From 1969 to 1973, almost 90,000 Cubans adjusted status; this alone accounts for nine months of the two and a half year Western Hemisphere backlog.

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As can be seen, one effect of the new law was to cut immigration from Canada; in 1965, it sent us more immigrants than any other Western Hemisphere nation, but it now ranks only fifth. The next two nations on the 1965 list were Mexico and Cuba, which have, in 1973, simply moved up one notch each. The Dominican Republic, Colombia, Ecuador, and Haiti were also among the top 10 in 1965, and remain so today.

In regard to the occupational mix, statistics show very few changes of great magnitude, especially when compared to those brought about in the Eastern Hemisphere by the preference system. The only noticeable changes appear to be a drop in professionals and a rise in laborers and service workers—that is, a downgrading of the skills of arriving aliens. The lack of a preference system and the two and a half year backlog are almost certainly the culprits here.

In short, the "reforms" introduced in 1965 have managed, in the Western Hemisphere, to defeat many of the basic purposes of the 1965 Act, to increase illegal immigration, to downgrade slightly the average skill of arriving immigrants, and to create a two and a half year backlog of would-be immigrants. What makes this picture more ludicrous than grim is that the new system for the Eastern Hemisphere is working so well.

The Eastern Hemisphere: a radical change

Under the old McCarran-Walter Act, immigration from Northern and Western Europe was greatly favored. Quotas were 65,631 for the United Kingdom, 24,814 for Germany, 17,756 for Ireland; the somewhat less favored Italy got 5,645 visas, and Poland 6,488; Greece received only 308 each year, while most Asian nations received only 100. With the introduction of the new preference system, the countries sending the most immigrants changed entirely, as the following lists show:

TABLE II. *Eastern Hemisphere Immigration: 1965, 1973.*

1965		1973	
United Kingdom	27,538	Philippines	30,700
Germany	24,045	Korea	22,930
Italy	10,821	Italy	22,151
Poland	8,465	China	17,297
Ireland	5,463	India	13,124
China	4,057	Greece	10,751
France	4,039	Portugal	10,751
Japan	3,180	United Kingdom	10,638
Philippines	3,130	Yugoslavia	7,582
Netherlands	3,085	Germany	6,600

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It should be added that immigration from Italy and Greece (where the backlog of fifth-preference brothers and sisters which existed in 1965 has been exhausted) appears to be dropping. Immigration from Northern and Western Europe is also dropping, due in some cases to favorable economic conditions in the home country and in other cases to the introduction of the labor certification requirement. Germany is an example of the former situation, and Ireland, with its largely unskilled labor force, of the latter. The great reduction in immigration from Ireland has been a source of concern to many Irish-Americans, and special legislation has been offered to raise the Irish total (down to 2,000 in 1973). But the proponents of the legislation have never been able to square special treatment for Ireland with the overall principle that national origins are no longer to be a factor in our immigration laws, and the special legislation has never come close to passing.

In 1965, only one of every 14 immigrants was Asian; in 1973, the figure had risen to almost one in three. The top two countries are now the Philippines and Korea, where immigration is hitting up against the 20,000 per-country maximum, plus the immediate relatives exempt from numerical limitation. The reason is, of course, that the national origins quota system has been replaced by the preference system, bringing to the United States individuals who, due to family ties or to special skills, are believed to be the most worthy of the limited number of visas available.

As striking as the shifts in the national origins of Eastern Hemisphere immigrants are the changes in the patterns of their occupational skills. Briefly put, Eastern Hemisphere immigrants, and especially Asians, are much more likely to be highly trained or professional workers than are immigrants from any other area. In 1973, 54 per cent of Asian immigrant workers were in the professional or technical fields; 83 per cent of Indian immigrant workers and 67 per cent of Filipinos were in this category. (It may be added that 52 per cent of the 6,700 immigrants from Africa were also in this category.)

No figures are kept by the U.S. government on the religion of immigrants, but the changing pattern of national origins clearly will result in increasing diversity in American religious life. Although most Filipino immigrants are Roman Catholics, immigrants from the rest of Asia are a mix of Buddhists, Hindus, Sikhs, and other religions hitherto largely unfamiliar to Americans. Increased immigration from Egypt, Pakistan, Turkey, Iran and other Moslem countries is producing a considerable rise in the number of American Moslems, although the absolute figures are still comparatively small. The bulk

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of Christian immigrants are Catholics from the Western Hemisphere, the Philippines, and Europe, but many belong to other churches. The Greek Orthodox Church has grown with immigration from Greece, Turkey, and Yugoslavia; Armenian Christians from Turkey and Assyrian Christians from Iran, unhappy with what they see as discrimination at home, are enlarging the size of these groups in the United States. At any rate, the proportion of white Protestants among the immigrants is very small.

The political effects of these changes in the ethnic composition of the American population are unknown. It has been suggested, notably by Daniel Patrick Moynihan, that the effect of large new nationality groups on American foreign policy will be significant. This argument cannot yet be evaluated, since the number of immigrants from any one nationality group admitted under the new law is not yet large enough to be a politically significant force, especially in view of the fact that many have not yet become citizens. In any event, the decision in 1965 to eliminate considerations of national origins from our immigration laws necessarily carries with it the acceptance of any such political effects as entirely legitimate: Our commitment to political and personal liberty extends to immigrants as well as to citizens.

Finally, no discussion of our immigration laws should fail to deal with America's policy towards refugees. The seventh preference, which is accorded six per cent of the 170,000 Eastern Hemisphere visas, is available to refugees who "because of persecution or fear of persecution on account of race, religion, or political opinion . . . have fled from any Communist or Communist-dominated country or from any country in the general area of the Middle East," or to "persons uprooted by catastrophic natural calamity as defined by the President." No President has ever admitted refugees under the "natural calamity" provision despite the many calamities since 1965; in any case, the few thousand available visas would probably not have helped much.

The "persecution" provision has been used for Yugoslavs (who can leave their country relatively easily), and to a lesser extent for other Eastern Europeans, Russians, and Chinese fleeing Communism; and refugees from the Middle East have included those fleeing Egypt and Iraq. The seventh preference has almost never been oversubscribed; apparently, fewer than 10,200 refugees per year are able to prove the legitimacy of their cases to the satisfaction of the Immigration and Naturalization Service (INS).

This preference, like all others, is available only to Eastern Hemi-

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sphere natives. Western Hemisphere natives may be "paroled" into the United States indefinitely, under general authority granted to the Attorney General to parole temporarily and for such time as he sees fit any alien seeking entrance. Parolees, unlike seventh-preference refugees, are not permanent residents, and remain here at the sufferance of the Attorney General. Many Chileans were paroled while the Allende regime was in power, only to have their paroles revoked and be asked to leave when his regime fell. Many Haitians already here on temporary visas are seeking parole as political refugees from the current regime, but the INS is skeptical of their claims that they will be persecuted if they return.

The seventh preference does not apply to refugees from Africa, unless they are fleeing Communism. Thus the few thousand Ugandan Asians who have entered the United States have likewise entered by parole, the only available means to bring them here. The political situation in Uganda now appears fairly permanent, and the INS has resorted to a subterfuge to allow the Ugandans to apply for permanent residence: Ordinarily, all Eastern Hemisphere immigrants applying for permanent residence (except seventh-preference refugees and exempt relatives) must obtain labor certifications; but this requirement was waived for the Ugandans since, the INS apparently reasoned, it would have been senseless to allow them to come here without a labor certification, and then have them remain permanently in the parolee's state of limbo for lack of one. Therefore, the INS simply waived the labor certification provision for all Ugandan parolees wishing to apply for permanent residence, exercising a power which does not appear to be granted to it by the Immigration Act. Apparently, the law can be bent in an appealing case.

The limits of labor certification

One of the major reforms of the 1965 Act was the new labor certification program, designed to protect the American economy from unemployment and adverse effects on wages and working conditions. This program is largely a failure, since it does not, and cannot, limit the immigration of workers to job categories in which there is a shortage. There are two reasons for this: First, the vast majority of immigrants do not require a labor certification, because they arrive as relatives exempt from the certification requirements. In 1972, it is estimated that only 11.7 per cent of all immigrants were required to get labor certifications. Even if, as has been estimated, only half of all immigrants join the labor force (the rest may be too

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old, or too young, or not work for some other reason), we may double this percentage and still find that less than one quarter of all immigrants joining the labor force need a labor certification before doing so.

Second, immigrants have absolutely no obligation to stay on the particular job, or even in the field of work, for which they were certified. Indeed, it has been variously estimated that within two years of entry 57 to 66 per cent of immigrants in the labor force change occupations. It is difficult to object to this exercise of a basic personal freedom, but at the same time, it greatly limits the overall effect of the labor certification program. Thus, one study done for the Manpower Administration concluded that the program is "not very useful" because "it has no impact on the total number of workers coming to the nation as immigrants and only the most indirect, and sometimes unpredictable, impact on the skill *mix* of the arriving workers." As a Manpower Administration official told the House subcommittee in 1973, "We are not protecting the American worker to any great degree with this section, or any other section. . . . Whatever we do here will not have a large or significant impact on the American economy."

These conclusions would make the labor certification program a harmless if ineffective one, but an explanation of how the program works will indicate that it is not so innocuous. For tens of thousands of applications for certification, the Manpower Administration, usually working through state employment services, must investigate and determine whether the job requirements listed are valid ones, whether the alien's qualifications are sufficient, whether there is a shortage of workers in that job in that locale, and then whether the terms of employment are average or better. The program obviously consumes great numbers of man-hours for a procedure that does not touch over 85 per cent of incoming aliens.

Even the Manpower Administration's witness told the House subcommittee that "the current procedure is also much worse than the previous one. I do not think there is any question about it." (Under the McCarran-Walter Act, rather than being excludable unless the Secretary of Labor certified them, aliens were admissible unless he certified that they should *not* be admitted, which certifications were exceedingly rare.) The most oft-proposed alternative is for a list of occupations and regions in which a shortage of workers exists. If the job he seeks is on the list, the alien is admitted; if it is not, he is not. No specific job offer would be required. This reform, while it would short-cut bureaucratic delays, could prejudice the alien in one way.

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The current system allows the employer to list his specific requirements and the alien his specialized skills, while the proposed alternative would enable the Labor Department to bar entire categories of applicants. At present, a professional worker, who is exempt from the requirement of a specific job offer, often finds that his petition is denied by the INS because the Labor Department says, in blanket fashion, that there is an oversupply of workers in his general field. If, on the other hand, he seeks an individual labor certification based on a job offer (as all non-professionals are required to do), he will find the state employment service and Labor Department much more receptive to his employer's needs for specific skills in the specific job in question. A blanket determination that there are sufficient chemical engineers may exclude a needed specialist in aluminum, for example, because of an oversupply in petroleum engineers—an error which the present system avoids.

In any case, the proposed reform would not overcome a basic contradiction in our immigration policy: The great emphasis we place on the admission of relatives makes it impossible to exercise much control over the effects of immigration on the American labor market.

The "illegals"

Thus far, we have been discussing the demographic and labor market effects of legal immigration. It is often argued, however, that the real threat to employment and to working conditions is *illegal* immigration.

In discussions of immigration to the United States, there is no subject about which more is said, and less is known, than illegal immigration. To begin with, the magnitude of the problem is, for obvious reasons, unknown. A House subcommittee estimated the number at between one and two million, and the INS Commissioner, former Marine Corps Commandant General Leonard Chapman, recently told Congress the total is four or five million. The unreliability of the figure was demonstrated when Chapman was asked how he arrived at it: "It is just a midpoint between the two extremes. I have heard one or two million at one end of the scale and eight or 10 million at the other. So, I am selecting a midpoint. . . . Just a guess, that is all. Nobody knows." Each year hundreds of thousands of deportable aliens are located, but extrapolation from those statistics is clearly unreliable, since, as Chairman Rodino (D.-N.J.)

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noted at the 1971 House hearings on illegal immigration, "The number of apprehensions of aliens illegally in the United States appears to be in direct proportion to the number of Immigration and Naturalization Service officers who are available."

Furthermore, discussion of the subject is distorted unless the Mexican border problem is separately treated. Each year, approximately 90 per cent of all deportable aliens located are Mexicans, and most are located in the border area. Therefore, gross figures about aliens located, deported, or required to depart are often misleading. For example, most Mexican "illegals" are here without any papers whatsoever—the proverbial "wetbacks" who cross the Rio Grande or land frontier undetected. By contrast, in New York City 90 per cent of deported aliens came here legally, with temporary visas which have run out. One likely explanation for the Mexican border situation is the termination, a few years ago, of the "Bracero" program, which brought Mexicans here temporarily to do manual labor. Apparently, the program may be said to be continuing on an unofficial basis.

But some of the explanations for increased illegal immigration from Mexico apply to the increase in illegal immigration in general. As has been noted, the labor certification program requires a specific job offer, and many prospective immigrants believe, probably with good reason, that they will not be able to procure one unless they are here to seek it out. For Eastern Hemisphere aliens, "adjustment of status" (from, for example, visitor) to permanent resident is permitted while the alien remains in the United States. It is estimated that in 1972 a full 40 per cent of all labor certification beneficiaries were adjustees. The alien frequently finds himself here with a job offer and with the probability that his status will be changed and that he will be allowed to stay permanently. Very often, he simply starts to work before the papers come through making him a permanent resident and thus entitling him to work. During this interim period, until his status is adjusted, he is called an "illegal alien." It is for this reason that one study concluded that "the adjustment process . . . legalizes the presence of a substantial number of previously illegal workers."

The situation is aggravated for the Western Hemisphere by the two and a half year backlog in visa numbers. Also, Western Hemisphere aliens must (with the important exception of Cubans) return home to get their visas and are not permitted to adjust status while in the United States. Therefore, once the alien has his job offer, he has a two and a half year wait before his visa will be available

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back home. Naturally, large numbers of aliens do take the jobs, remaining here illegally and working illegally while waiting for their number to come up. If they returned to wait in their home countries, as the INS wants them to do, their employers would almost undoubtedly forget them and eventually withdraw their job offers.

If aliens with approved labor certifications and aliens exempt from the labor certification requirement were permitted to work while waiting for their permanent residence visas, a great deal of the "illegal alien" problem would disappear. On the other hand, this reform would diminish the effect of the 120,000 overall limitation, since large numbers of aliens with approved cases would be remaining here legally while awaiting their residence visas.

The 1965 reforms have thus promoted a good deal of illegality. The requirement that the alien get a specific job offer, and the backlog in the Western Hemisphere in visa availability combine to produce a tremendous incentive for aliens to work here illegally. Of course, permission for aliens with a labor certification to work while awaiting their visa would not entirely eliminate the illegal alien problem, or even that part of it not involving Mexican border-crossers. Many aliens ineligible for permanent residence, or who cannot get a labor-certified job offer, would still come here and work. It is clear, however, that the size of the problem is greatly magnified by the present definitions of "illegality." If, for example, a Canadian visitor meets a Canadian who is a permanent resident here and marries him, she is exempted from the labor certification requirement but not from the two and a half year wait for a Western Hemisphere visa. If she decides to stay here with her husband to wait out the two and a half years, she is an "illegal alien." The "illegal alien" problem is, then, in part an artificial concept.

The enforcement problem

Another reason for the great number of illegal aliens here is that there is no penalty for this violation of the immigration laws except expulsion from the United States, and due to the lack of enforcement officers, the illegal alien is correct in assuming that he is likely never to be caught. Theoretically, he could be deported if apprehended, and would then not be permitted to re-enter the United States without special permission of the Attorney General. But aliens seem to be aware that, due to both its shortage of funds and manpower and its desire to spare the first offender the severe penalty of

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permanent exclusion, the INS will grant them "voluntary departure." Though the departure is hardly "voluntary," the alien pays his own way and his record remains clear. As for the U.S. employer of illegal aliens, he is subject to no penalty whatsoever, even if he is well aware that his employee is prohibited from working here.

Legislation has been proposed, and seems likely to pass in the new Congress, to remedy this situation by making it an offense for an alien to work without permission and for an American employer knowingly to employ an alien who is prohibited from working. The proposed legislation would warn the employer for his first offense, fine him $500 for his second, and fine him $1000 or jail him for a year, or both, for his third. One step already taken to discourage illegal employment is the recent introduction by the Social Security Administration of a new set of regulations. An applicant for a Social Security card must prove either that he is an American citizen or that he has permission from the INS to be employed. This change will undoubtedly have some effect, but its magnitude cannot yet be determined.

Such legislative and administrative actions bespeak great concern on someone's part over the illegal alien problem, and the obvious question is, why? The New York District Director of the Immigration Service stated at Congressional hearings in 1971 that the illegal alien "is a law-abiding and industrious, hard-working individual whose chief concern seems to be in earning a living and helping to support his family abroad," and the House subcommittee accepted this verdict as accurate. Where, then, is the rub?

To the Immigration authorities, of course, it is simply a matter of a job to be done: The law is on the books, and the INS has a responsibility to enforce it. Thus, when the chief counsel of the Service, Charles Gordon, explained that deportation was an insufficient sanction and argued for criminal sanctions against aliens working illegally, Chairman Rodino asked, "What are we trying to get at? Is the person who accepts employment keeping Americans from being employed?" Gordon's reply was: "I do not think that is the primary factor underlying this proposal. The primary factor is that the person who comes here as a non-immigrant and accepts employment is violating the law and knowingly doing this."

A threat to American jobs?

For almost everyone else, however, the primary factor is the effect of illegal immigration on the jobs of Americans. Judging from

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the number of declarations that illegal aliens take jobs away from Americans, it would seem that the evidence to that effect is overwhelming. The Commission on Population Growth asserted that illegal aliens "deprive citizens and permanent resident aliens of jobs. . . ." This conclusion is heard from witness after witness, representing private groups and government agencies, whenever Congress looks into the problem. The very striking fact, however, is that no *evidence* is ever presented to support this proposition. Instead, it is accepted as a matter of logic; a Manpower Administration official from California told the House hearings that "I think it is logical to conclude that if they are actually employed they are taking a job away from one of our American citizens."

Whatever one may say about this conclusion, logic alone will not do to support it, any more than logic alone can support the widely drawn conclusion that illegal aliens work for low wages and depress labor standards here. This latter proposition certainly seems sensible, given that illegal aliens cannot call upon various legal protections or fight an unscrupulous employer, for fear of being reported to the authorities. Nonetheless, the proposition seems *not* to be true. The District Director of the INS in Denver told the House subcommittee that "we have developed no particular evidence they're being paid less than the going wage," and the New York District Director testified to the same effect. There are no statistics on this question, apparently, and impressionistic evidence may well be all that is now available. According to it, employers seem to pay according to the job category or quality of work, and do not make distinctions among workers in terms of whether or not they are legally entitled to be employed.

As to the assertion that illegal aliens take jobs from Americans, there is a similar lack of evidence. Certainly it is *not* "logical to conclude that if they are actually employed they are taking a job away from one of our American citizens;" the fact that a sizable number of illegals have or could get labor certifications belies that "logic" and indicates that many illegal aliens are filling shortages that even the Labor Department considers genuine. Impressionistic evidence indicates too that illegals are hired on many occasions when Americans are available but not willing to do the job. Live-in maids are the prime example here: Since 1965, tens of thousands of alien women have been certified as domestics because, as one regional manpower officer testified to Congress, this is work which sufficient numbers of American women simply refuse to do. There are apparently other jobs in this category. In 1964, Congressman

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Celler, speaking in favor of the reform legislation, noted that "You couldn't conduct a hotel in New York, you couldn't conduct a restaurant in New York . . . if you didn't have rough laborers. We haven't got the rough laborers anymore. . . . Where are we going to get the people to do that rough work?"

Anyone who has dined out recently in New York can testify that the "rough work" is still being done, in large part, by aliens, and any immigration lawyer will explain that large numbers of these workers are working illegally. The Department of Labor will not certify a shortage in unskilled occupations such as dishwasher, busboy, or porter, on the theory that since these jobs require no skill any unemployed American would presumably be willing and able to fill them. Whatever the accuracy of this conclusion as a matter of economic theory, the availability of welfare and unemployment insurance, among other factors, clearly makes many Americans unwilling, even if they are able, to take these low-pay, low-status jobs. What is one to say to the employer who, in one case, needed kitchen help for his small New Jersey hotel, and found that any Americans he could get to take these jobs saw them primarily as a means to earn the price of an evening's merriment; they would all quit after a few days of work, and in any case the hangovers from their merriment made them less than effective workers. The employer finally found three young Salvadorians who were willing to do the job and were excellent workers, only to be told by the Labor Department that there were many Americans "able, willing, qualified, and available" to fill his requirements.

The overrated crisis

Experiences such as these, which are extremely common throughout the country, indicate that Congressman Celler was right. The INS New York District Director told Congress in 1971 that most illegal aliens are still in the lines of work Celler pointed to: "those requiring manual labor, those with manual skills, restaurants, hotels, construction sites, industrial and factory, where some operation is needed where one needs very little skill at all." And an indication that illegal aliens are not "stealing" these jobs from competing Americans is provided by the fact that aliens, legal or illegal, do not seem to have special difficulty finding jobs despite the relatively high unemployment rate and their language problems.

But the issue is a complex one. The low unemployment rate among aliens may exist because employers prefer them to their Amer-

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ican competitors who, in low-skill jobs, are often black or Spanish-speaking. The impression gained from talking to employers supports the view of one informal survey done as part of a study sponsored by the Manpower Administration. Noting that in employer interviews there was "an almost complete lack of derogatory comments about immigrant workers," the study pointed out that "immigrants are not a random sample of any population. They are the people with enough drive and determination to leave their native lands and seek their fortunes in a strange land. . . . That immigrants have been hardworking, upwardly mobile, and successful has been known to Americans for a long, long time. The interviews of immigrants and their employers simply showed that it is still the case (and that employers still appreciate it)." Since, especially in view of possible language problems or difficulties with the immigration authorities, it is unlikely that an employer would prefer to hire foreigners instead of Americans, it seems likely that the study's conclusion is correct.

Another approach to the issue is to ask what result would ensue if all illegal aliens disappeared. Would the jobs they hold be filled with Americans now seeking such jobs? Or would the jobs remain unfilled because Americans do not want them, or because employers will not hire the Americans who are available? Would a shortage of workers ensue, which would force up wages to a point at which Americans now disdaining the jobs would take them?[5] Or would such a rise in the cost of labor force many marginal employers, such as restaurants, out of business, to the detriment of the economy as a whole? The answers to these questions are simply not known. Although it is often asserted that illegal aliens take jobs from Americans, logic does not lead to this conclusion, and there is little hard evidence either way.

As a grave national crisis, then, the "illegal alien" situation is somewhat overrated. Certainly, in some areas (as always, the Mexican border problem is *sui generis*), illegal aliens depress wages, and certainly, some have taken jobs from Americans. However, there is simply no evidence at all, nor any compelling reason to believe, that either of these effects is widespread or serious. And as to the illegality involved, we would do well to remember that many "illegals" are simply waiting for their visas to be approved, as they are either exempt from, or have already qualified for, a labor

[5] This is certainly the conclusion to which economic theory would point, but experience indicates that the facts are otherwise. For example, a common wage for a live-in couple in a good situation in the Northeast is $250 per week plus free room and board. Nevertheless, very few Americans apply for such jobs.

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certification; in the latter case, they are obviously *not* taking a job from an American. While it is true that illegal immigrants violate the law, and should not be permitted to do so any more than citizens should, it is also true that a criminal penalty is only part of the answer; a reform permitting aliens exempt from or already in compliance with the labor certification requirement to remain here and work until their visas are issued would seem to be of greater help to American citizens (in the roles of relative or employer) and, of course, to aliens, and would also cut down on "illegal immigration."

The American dilemma

Many of the problems resulting from the new immigration law are soluble, and the next session of Congress is likely to see remedial legislation passed. But new legislation cannot, of course, resolve the irreconcilable conflicts built into our immigration policy. As has been noted, if we emphasize the economic role of immigration and admit more and more skilled workers, we sacrifice the goal of reuniting families; if we stress (as is now the case) the admission of relatives, we lose control of the effect of immigration on our labor markets. If we admit highly skilled immigrants, we may be hurting their home countries and our own less privileged citizens; if we fail to admit the highly skilled applicants, we deprive our country of their badly needed talents. Remedial legislation can, however, deal with problems which, if not unpredictable, were at least unpredicted—above all, the dilatory and haphazard treatment of Western Hemisphere immigrants caused by the great rise in demand and the lack of a preference system for this area.[6]

It is important, however, to distinguish criticism of some aspects of our present statutes and administrative procedures from criticism of our basic immigration policy. The fact is that the Immigration Act of 1965 brought into being both the most humanitarian and the most sensible immigration policy in our nation's history. Despite the many criticisms that may be directed at our immigration laws, the United States remains, of all the world's countries, by far the most hospitable to immigrants. Not only do we admit more immigrants than any other country, we treat all applicants without regard to religion, race, color, or national origin. No serious pro-

[6] Congress now has before it bills which would institute a preference system in this Hemisphere. The establishment of a unitary world-wide preference system and quota of 290,000 has also been proposed, but such a system would obviously decrease the backlog in the Western hemisphere only at the expense of the Eastern hemisphere, where delays would increase.

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posal has been made to reduce non-white immigration—a step already taken by Canada. Further, we allow immigrants to become full-fledged citizens after only five years. Moreover, the evidence indicates that chauvinistic prejudices against newcomers are rare, and opportunities for economic and social integration are widespread.

None of this is news to the millions of aliens now planning on, or dreaming of, making their futures in the United States. Though Americans may be used to hearing our society described as racist, oppressive, or sick, this country remains a symbol of political freedom, social mobility, and economic opportunity to millions around the world. The difficulties we face in implementing our immigration policy are not the result of gross incompetence or meanness of spirit (though both can be found in Congress and in some of the pressure groups seeking to influence the writing of immigration laws). On the contrary, we face difficult choices because our country remains immensely attractive to enormous numbers of aliens, and because we are willing to admit a substantial number of these. It is in this context that the successes and failures of the 1965 reforms must be evaluated.

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Irving Kristol, Editor

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The intelligent citizen's guide to inflation

ROBERT M. SOLOW

Two broadly opposite frames of mind seem to dominate the current discussion of inflation. One says that we are beset by some utterly mysterious plague of unknown origin. If it is not stopped soon, it will cause unimaginable, or at least unspecified, disasters. The only hope is that some Pasteur or Jenner or Ehrlich will discover The Cure. The other view is that it is all quite simple. There is some one thing we have failed to do: control the money supply or balance the budget or legislate price controls or abolish the unions. As soon as we do it, the problem will then go away.

This essay is written in the belief that both these currents of opinion are wrong. I do not, however, have an alternative solution to offer. Indeed, I rather doubt that there is a Solution, in the sense of some policy that your average mixed capitalist economy can reasonably be expected to pursue which will drastically reduce the tendency to inflation, without substituting some equally damaging and intractable problem instead.

What I can hope to do is to explain the vocabulary and intellectual framework evolved by economists for discussing and analyzing inflation. By itself, this will contribute to clarity of thought—much, perhaps most, of current popular discussion is hopelessly confused.

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I hope to be able to go further than that, however. There are some positive statements one can reasonably make about the behavior of modern mixed economies. We know less than we would like to know, but much more than nothing. Where I verge on speculation, or where there are real differences of opinion within the economics profession, I will try to be honest about it.

What is inflation?

Inflation is *a substantial, sustained increase in the general level of prices.* The intrinsic vagueness of "substantial" is harmless. One would not want to use a heavyweight word to describe a trivial rise in the price level; granted, it will never be perfectly clear where to draw the line, but neither can it be important since only a word is at stake. "Sustained" is a little trickier. One would not want to label as inflationary a momentary (six-month? one-year?) upward twitch of the price level, especially if it is soon reversed. There is no point in being forced to describe mere short-term fluctuations in prices as alternating bouts of inflation and deflation. "Sustained" also carries some connotation of "self-perpetuating" and that raises broader questions. It is obviously important to know whether each step in an inflationary process tends to generate further inflation unless some "outside" force intervenes, or whether the inflationary process is eventually self-limiting. The answer need not be the same for all inflations, and it certainly depends on what you mean by "outside." So it is probably best not to incorporate this aspect as a part of the definition.

It is the notion of the "general price level" that will lead us somewhere. Economists make a sharp and important distinction between the system of relative prices and the general price level. Relative prices describe the terms on which different goods and services exchange for *one another;* the general price level describes the terms on which some representative bundle of goods and services exchanges for *money.* Imagine an economy in which the only goods produced are meat and vegetables, and first suppose that all exchange is barter; some people trade meat for vegetables with other people who want to trade vegetables for meat. If one pound of meat exchanges for three pounds of vegetables, then the relative price is established. But since there is no money, there is no such thing as the general price level. Notice that inflation is inconceivable in a barter economy. It would be logically contradictory for "all prices" to rise at the same time. Suppose that, because of a change in tastes or a natural

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catastrophe, one pound of meat should come to exchange for six pounds of vegetables. One could say that the price of meat (in terms of vegetables!) had doubled. But that is exactly the same thing as saying that the price of vegetables (in terms of meat!) had halved. A carnivorous farmer would find himself worse off; but a vegetarian rancher would be sitting pretty.

So inflation has intrinsically to do with money. Now let us introduce some greenbacks to serve as money in our meat-and-vegetables economy. Suppose meat goes for $1.50 a pound and vegetables for 50 cents a pound—i.e., one pound of meat for three of vegetables, as before. Now suppose that at a later time meat goes to $3.00 a pound and vegetables to $1.00. The relative price is unchanged. From most points of view the meat-and-vegetables economy goes along as if nothing has happened, and from most points of view nothing has. (Not quite nothing: A tradesman or a miser who happened to be sitting on a load of greenbacks at the time will have taken quite a beating.)

We can go a step further. Suppose the average daily diet consists of one pound of meat and one pound of vegetables (though very few individuals may actually consume exactly the average diet). We could agree to measure the general price level by the money cost of the average consumption bundle. In that case, we would say that the price level was 200 in the initial situation, and 400 after the price increases. (It is the custom to choose some year as "base year" and set its price level arbitrarily at 100. If the initial year is the base year, then the later price level would be 200.) In any case, we would certainly want to say that the general price level had doubled, and if it had doubled in exactly 12 months, we would say that the rate of inflation had been 100 per cent a year.

Since the prices of all goods and services had exactly doubled, it is no trick to say that the general price level had doubled. But we now have a routine that will take care of less obvious situations. Suppose meat goes from $1.50 to $2.40 a pound and vegetables from 50 cents to 60 cents. The price of meat has risen by 60 per cent, that of vegetables by 20 per cent. But the cost of the average consumption bundle rises from $2.00 to $3.00 (or the price index from 100 to 150). So we could say that the price level had gone up by 50 per cent. Notice also that this time relative prices have also changed: A pound of meat exchanges for four pounds of vegetables at the new prices. The vegetarian rancher gains at the expense of the carnivorous farmer, but *that is because of the change in relative prices.* In the case of "pure inflation," when *all* prices change *in the same propor-*

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tion, nobody loses (except owners of money) and nobody gains (except owers of money).[1]

Perhaps the simplest way to define inflation is as a loss in the purchasing power of money. That has the merit of emphasizing the fact that inflation is essentially a monetary phenomenon. But there is a possible semantic trap here. Some economists believe that the whole inflationary mechanism is primarily or exclusively monetary, in particular that the main or only cause of inflation is too rapid a growth in the supply of money. They may be right or they may be wrong. (I happen to think that doctrine is too simple by half.) But the mere fact that you can have inflation only in a monetary economy is neither here nor there, just as the fact that you can't have a drowning without water doesn't prove that the way to understand drowning is to study water. I will come back to this analytical question later.

Measuring inflation

In the real world there are thousands of goods and services, whose relative prices are changing all the time in complicated ways. The measurement of the general price level thus becomes a major statistical enterprise. But it is done, and generally according to the principles just described. In fact, the American reader is confronted with at least three separate indexes of the general price level: the Consumer Price Index (CPI), the Wholesale Price Index (WPI), and the GNP Deflator. Since there are some conceptual differences among them, and since they may occasionally say different things, it is worthwhile to understand exactly what each of them means.

The CPI (what is sometimes called the cost-of-living index) is produced and published monthly; it is closest in principle to the kind of price index described earlier. At intervals of a decade or more, the Bureau of Labor Statistics (BLS) conducts an expensive survey of the spending habits of families of different size, income, and other characteristics. From this survey it calculates the typical budget of a middle-income, urban wage-earner or clerical worker with a family of four. Then each month it actually prices out that budget in a number of cities around the country. If the cost of that bundle goes up or down by one per cent, the CPI goes up or down by one per cent.

That is certainly a reasonable and meaningful price index, but it

[1] The smart kids in the class will now ask: If meat gets more expensive relative to vegetables, won't consumers buy less meat and more vegetables, and won't that change the make-up of the average consumption bundle, and what will that do to the price index? They can go on to the course in Index-Number Theory, but they will find it dull.

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does have some drawbacks. (Of course, any method of reducing all those thousands of price changes to a single number will have drawbacks.) It relates only to consumers; the prices of industrial machinery and raw materials could go sky-high, and the CPI would register that fact only later, when cost increases filtered down to retail prices. Moreover, the CPI relates only to some consumers—those middle-income, urban, wage-earning families of four. Old people, or poor people, or oil millionaires, who buy different bundles, may have different experiences. Finally, economists have a technical reservation. The CPI covers, as its concept dictates it should, everything consumers spend money on, including sales taxes, monthly mortgage payments, used cars, and so on. It reflects changes in state and local taxes, interest rates, used-car prices, etc. For some purposes, economists would prefer a price index confined to currently-produced goods and services. Certainly it matters whether a rise in the CPI reflects mainly higher sales taxes and interest rates or higher prices for food and clothing.

The WPI, also available monthly, is based on prices collected at the wholesale level. Its coverage is wide but rather peculiar, for several reasons. For one thing, it omits all services, medical care, house rents, etc. For another, it counts some prices over and over again, and thus gives them more weight than they deserve. For example, a change in the price of raw cotton will appear first as a crude material, then again as it is reflected in the price of cloth, then again as it is reflected in the price of clothing. This pyramiding overemphasizes crude material prices and can cause the WPI to behave quite erratically, especially when the prices of materials are changing. Its main utility is that, just because of its coverage of the early stages of fabrication, it often catches price developments early. The WPI, like the other indexes, is broken down into sub-indexes (in the case of the WPI, farm products, processed foods, industrial materials, various categories of finished manufactures, etc.), and these may be very informative.[2]

The GNP Deflator

The GNP Deflator is by and large the economists' favorite. Unlike the CPI, it covers only currently produced goods and services, and unlike the WPI, it avoids all double-counting. But it is constructed in

[2] For more on the WPI, and for a very informative and interesting article complementary to this one, I recommend "Inflation 1973: The Year of Infamy" by William Nordhaus and John Shoven in the May/June 1974 issue of *Challenge* magazine.

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a more complicated way. The Department of Commerce calculates every quarter the country's Gross National Product. This is essentially the value at current market prices of the current flow of newly produced final goods and services. (The force of "final" is that one omits goods and services which are immediately used up in the production of something else, because their value will be included in the value of the final product.) At the same time, Commerce also calculates the GNP "in constant prices." That is, it takes the current flow of final goods and services, but instead of valuing them at this quarter's prices, it values them at the prices of some fixed year, currently 1958. For instance, in 1973 the GNP in current prices was $1,295 billion, but the GNP in 1958 prices was $839 billion, because 1958 prices were lower than 1973 prices.

How much had prices risen between 1958 and 1973? The natural computation is $1,295/$839=1.54, for an increase of 54 per cent. If the 1973 flow of output valued in 1973 prices is 54 per cent higher than the *same* flow of output valued in 1958 prices, then the obvious inference is that the general level of prices must have risen by 54 per cent since 1958. So the general formula for the GNP Deflator in year X is: GNP in year X in current prices/GNP in year X in base-year prices. (Exercise: Convince yourself that the GNP Deflator for the base year itself is automatically 1.00 or 100, because in the base year GNP in current prices and GNP in base-year prices are the same quantity.)

Economists like this price index for the analysis of inflation not because it is obscure, but for the reasons I mentioned before: It eliminates double-counting, and it focuses on the pricing of currently produced goods, not existing assets. For that very reason, of course, it may not reflect exactly the experience of consumers. Another disadvantage is that the GNP Deflator is available only at quarterly intervals.[3]

All price indexes suffer from a common difficulty. Commodities change in character and quality. How can the BLS price the same consumer-bundle in 1955 and 1975 when many of the things consumers buy in 1975 did not exist, and so had no prices, in 1955? How can the Commerce statisticians value 1975 GNP in 1958 prices, when there were no 1958 prices for some of the items entering the 1975 GNP? If the price of an ordinary shirt rises 10 per cent in the course

[3] There is another minor problem. The basis for putting a price on the output of governments—education, police services, "plumbers'" services, etc.—is pretty tenuous, though these are all part of the GNP. It is possible to produce a price index for privately produced GNP, nearly all of which is actually sold on a market.

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of a year, but simultaneously the wrinkle-resisting properties of the shirt are improved, how is one to decide how much of the 10 per cent represents the greater value of an improved product and how much represents pure price increase? The agencies do the best they can, but it is hardly a job that can ever be done perfectly. It used to be thought that there was systematic underallowance for quality improvements to such an extent that an annual rise of one or two per cent in the measured price level could be ignored as not being a true price increase; but no one knows for sure. Perhaps the best conclusion is that one ought not to attach great significance to small changes in price indexes.

This discussion of price indexes has given us another concept of absolutely fundamental importance for rational discussion. GNP in constant prices is in an important sense a "physical" concept. It is an attempt to measure the size of the flow of actual production in a way that is independent of inflationary and deflationary aberrations. When GNP in constant prices changes, it is because the production of goods and services has changed, not because prices have changed. In terms of my earlier example, the difference between the 1968 GNP of $707 billion in 1958 prices and the 1973 GNP of $839 billion in 1958 prices permits us to say that "aggregate output" rose by 18.7 per cent between those years. In the jargon, GNP in constant prices is called "real GNP" or "real aggregate output." We will be coming back to it.

The last 100 years

The two charts on the following pages show what has happened to the general price level since 1867. The price index used is the GNP Deflator.[4] Figure 1 shows the price index itself on what is called a logarithmic scale, to draw attention to the proportional changes that really matter. The base year is 1929=100. The fact that the price level in 1973 (291.5) is almost four times that in 1867 (78.0) is not to be taken as utterly precise, in view of the vast difference between the commodities making up the GNP in 1867 and those actually produced in 1973. But for orders of magnitude, the figures will do. Steep portions of the curve represent periods of more severe inflation; when the curve points downward, the price level was actually falling.

Figure 2 converts the price index into percentage rates of inflation

[4] I owe the figures to Professor Benjamin Klein of the University of California at Los Angeles, who pieced them together from estimates made by Robert Gallman for 1874-1909 and Simon Kuznets for 1910-1946, and the official Commerce Department figures for 1947-1973. The earlier figures are based on very sketchy data.

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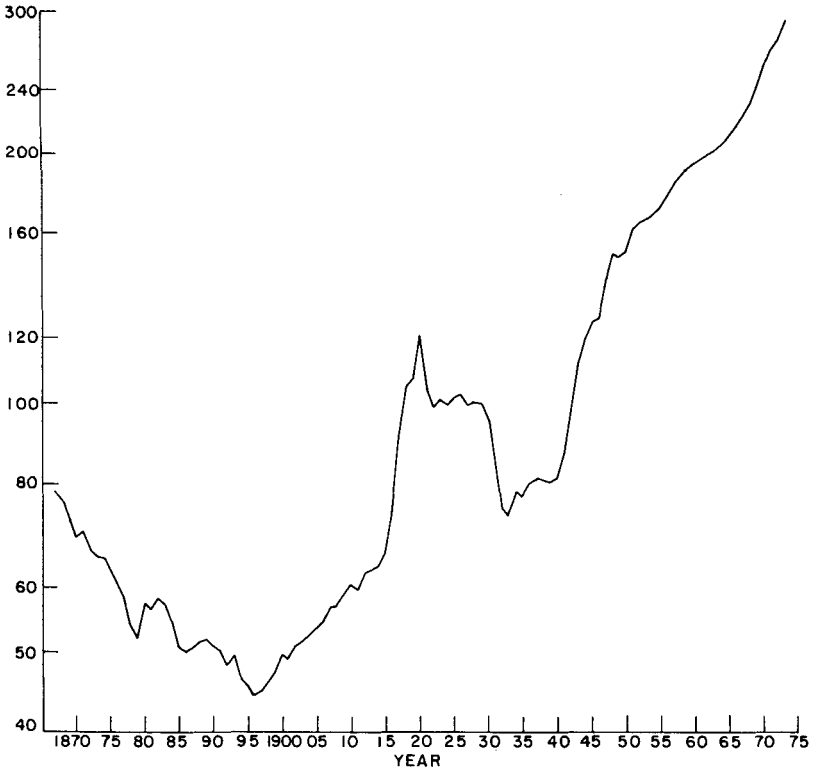
FIGURE 1. *The Price Index, 1867-1973 (1929 Base)*



and deflation; prices are rising when this curve is above the zero line, and falling when it is below.

The broad outlines of the history of the price level are easily read from the charts. From the end of the Civil War to the end of the 19th century, the predominant trend was deflationary. The GNP Deflator fell by more than 40 per cent between 1867 and 1896. Although the curve turned upward about then, by the eve of the First World War the price index had gone back up only to the level of 1873.

Really big inflationary bursts are associated with major wars, and their aftermath. Between 1914 and 1920, prices almost doubled. Between 1940 and 1948, prices almost doubled. The Korean War added only about 10 per cent to the price level. In the case of the Vietnamese War it is hard to know where to start; between 1966 and 1972, the index rose about 30 per cent.

But that is only half of it, and in some ways the less interesting half. There were at least two years of deflation after the First World War; by 1922 the index was back to the 1917-1918 level. The depression of the 1930's, like those of the 1870's and 1890's, pushed the price level

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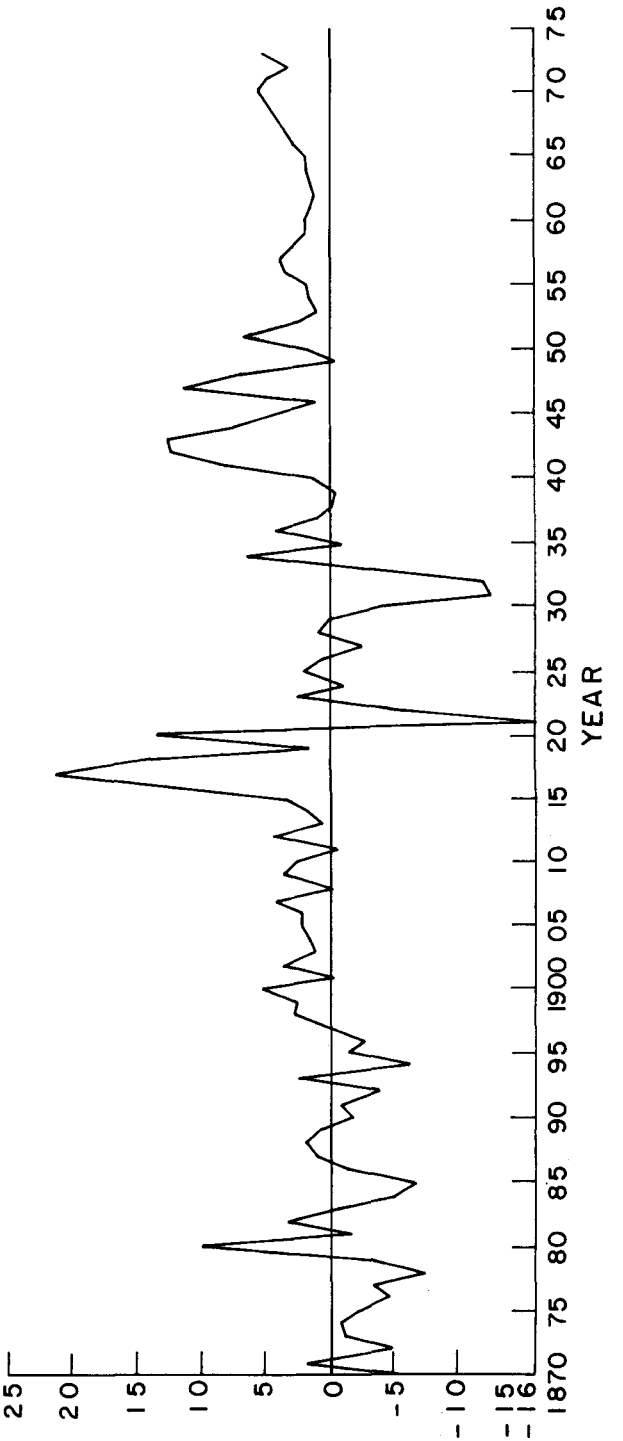

FIGURE 2. *Percentage Rates of Inflation and Deflation, 1870-1973*

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down. The index, pegged at 100 in 1929, fell to 73.3 in 1933, rose to 80.3 in 1936, and stayed there until the eve of the Second World War in 1940. But the last minus-sign on Figure 2 appears briefly in 1949 when the first of the mild postwar recessions lowered the price index by a point. (On a quarterly basis one could find a somewhat bigger decline.) From 1950 on we have had a quarter-century without a dip in the general price level. The best one can find is the period beginning with the recession of 1958, running through the milder recession of 1960, and continuing during the slow return to approximate full employment at the end of 1965. During that interval, the Deflator rose at an average annual rate of about 1.5 percent. It is simply not possible to know with any confidence what would have happened if the escalation of the war either had not occurred or had not been allowed to overheat the economy in the last years of the Johnson Administration.

Why is pure inflation a bad thing?

There seems to be universal agreement that rising prices are a cause for alarm and perhaps fear. Candidates for office accuse incumbents of having fostered inflation or failed to prevent it, and promise to eliminate it themselves. Incumbents announce that they are working on the problem. And surveys of public opinion show that very many ordinary people regard inflation of the price level as one of the most serious problems they face, or at least as an important background worry. Yet it is fair to say that public discussion offers no insight at all into the precise way in which a rising price level damages the current or prospective welfare of the representative citizen. Occasionally, the implied mechanism in the background makes no sense at all. Such a peculiar situation clearly deserves the most thorough investigation.

For the sake of clarity, let us first make an abstraction and think about a "pure" inflation, during which all prices rise at the same proportional rate—so many per cent per year—so that relative prices are unchanged throughout. Real inflations don't happen that way; but if we are to understand how and why inflation is a burden on society, we had better be able to understand the hypothetical special case of a pure inflation. After all, relative prices can change without any change in the general price level; we ought not to confuse the effects of the one with those of the other.

Well, then, who gets hurt in a pure inflation? If you think back to our meat-and-vegetables economy, it is hard to see how producers,

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including workers, suffer at all. So long as the prices of meat and vegetables, and wage rates in both industries, go up at the same percentage rate, every participant in the economy continues to have the same purchasing power over all goods and services as before. The inflation appears to have no "real" effects. The general point is that a person's economic welfare depends on the prices of the things he or she buys and sells, including labor and the services of property; if the prices of all those things go up or down in the same proportion, then economic welfare stays the same.

Now there is an optical illusion that clearly plays some role in popular discussions of inflation. Many people see no connection between the prices of the things they buy and the prices of the things they sell. The ordinary person works hard and feels that each year's wage increase is deserved. When it turns out that prices have also increased, so that all or part of the wage increase is illusory, the ordinary person regards that price rise—inflation—as a form of theft, a hand in his or her pocket. But of course, wages could not have increased had prices not increased. I cannot estimate how widespread this illusion may be, but there can hardly be any doubt that such an illusion does exist.[5]

If you want to know how the country as a whole is doing, then the course of the price level will not tell you. In narrowly economic terms, the proper measure of success is the flow of goods and services produced and made available to the society for consumption and other uses. The closest thing we have to look at is the real GNP, which we have already met. GNP in constant prices is the most comprehensive available measure of the performance of the economy in doing what it is supposed to do—the generation of want-satisfying commodities. It is far from perfect for reasons that involve the treatment of depreciation, environmental effects of economic activity, the organization of work, the "quality of life," governmental activity, and other things, but none of them has to do with inflation. So if inflation is a net burden to society, that ought to show up in a reduction of real GNP, or at least a slowing-down of its normal upward trend. But that is not what happens; in fact the opposite is more nearly true. Periods of prosperity are somewhat more likely to coincide with periods of inflation and periods of recession are some-

[5] No one could make that mistake in the simple meat-and-vegetables economy. But the real world is more complicated. For instance, the timing of price and wage increases is irregular, with some temporary advantage from getting in early, and some loss from getting in late. Moreover, the normal experience is that standards of living rise as productivity improves. Then only part of a wage increase is eroded away by price increases, but even the loss of that part is felt as robbery.

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what more likely to coincide with intervals of stable or more slowly rising prices.[6]

Is the social cost of inflation a mirage? There is one earlier hint that needs to be followed up. In a monetary economy—the only kind that can have inflation—holders of cash see their real wealth eroded by a rising price level, even in a pure inflation. So do creditors who hold claims for payment fixed in money terms. Offsetting at least some of these losses are the gains of debtors, who can pay back in dollars of smaller purchasing power what they had borrowed and spent in dollars of higher real value. Perhaps the true social costs of inflation are to be found among the holders of money, or among cash creditors more generally.

Anticipated inflation

Another distinction—this time between anticipated and unanticipated inflation—is required for this analysis. So let us take the strongest case first: a pure inflation which is confidently and accurately expected by everyone in the economy. Suppose you lend me a dollar today and I agree to pay back $1.05 a year from today. Then we have agreed on an interest rate of five per cent annually. (You laugh, somewhat bitterly. But it's just an example.) If we both correctly expect the general price level to be quite steady during the next year, then that is all there is to it. You as lender and I as borrower are both willing to make the transaction at an interest rate of five per cent a year. Now imagine instead that we both confidently expect the general level of prices (which means each individual price and wage, since we are talking about a pure inflation) to be four per cent higher a year from now. I would be delighted to take your dollar today and pay you $1.05 in a year. Why not? If meat is a dollar a pound today and will be $1.04 a pound in a year, then in effect you would be lending me a pound of meat today, and I would be obliged to pay you only 1.05/1.04 or about 1.01 pounds of meat next year. In *real* terms, you would be getting interest at one per cent a year, not five per cent. Of course for the same reasons that I would be pleased at the transaction, you would not be. In fact, if we were both prepared to make

[6] There is an exception to all this, but it need not concern us. Imagine a country which must import a large fraction of its basic necessities, like food and oil, and pay for them with exports of other commodities. Such a country may experience steady or rising real production, but if world food and oil prices are rising faster than the prices of its exports, its own standard of living could deteriorate. The United States is not in that position because it is so nearly self-sufficient; but of course it is hardly a hypothetical possibility for Japan and some European countries.

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the deal at five per cent with stable prices, we ought both to be prepared to make the deal at nine per cent when we both confidently expect the price level to rise at four per cent a year; in the real purchasing power terms that matter, you will then be collecting interest at five per cent per year. In the professional jargon, the *real* rate of interest (five per cent) is the *nominal* or *money* rate of interest (nine per cent) less the expected rate of inflation (four per cent). Thus the very high interest rates of early 1974 have to be read against the substantial inflation of the same period. Real rates are not as high as nominal rates; in fact, they are lower by about the expected future rate of inflation—about which we can only guess. Of course, anyone who borrows long and is locked in at high interest rates is left holding the bag if the inflation should unexpectedly slow down or stop.

What follows? *If* the inflation is fully anticipated by everyone, *if* everyone has complete access to the capital markets, and *if* all interest rates are free to adjust to expectations about the price level, and do so quickly and smoothly, then borrowers and lenders will be able to protect themselves against inflation. Once again, the inflation would seem to have no real effects.

Well, not quite. Those qualifications are pretty strong. Obviously, we will have to consider the case of unanticipated inflation; but even before we get to that there are some important things to say. First of all, some assets bear no interest at all: the important ones are currency and balances in ordinary checking accounts. They constitute the money supply. It would be mechanically difficult for the Treasury to pay interest on currency. Commercial banks are restrained by law from paying interest on checking accounts. (They do the next best thing by providing financial services free of charge, or at a fee that diminishes with the size of balance; but that is hardly the same thing and cannot in any case serve the same purpose as a nominal interest rate in adjusting to expectations about rising prices.) So, even if the inflation is correctly anticipated, holders of currency and checking accounts will suffer (as they would symmetrically gain if deflation should ever come back into style). These losses to holders of money are not, so to speak, net losses to society, because there are corresponding gains to others. In the case of checking accounts, the gainer is the bank and its stockholders, who earn the higher nominal interest rates on their own assets and pay no interest—except for those free financial services—on deposit liabilities. In the case of currency, the U.S. Government, in the person of the Federal Reserve, is the issuer of the paper, but it is rather special paper, and a special kind of liability, and in any case not very important.

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The "deadweight loss"

Since anticipated inflation redistributes to others part of the wealth of holders of money, it is natural that businesses and people should try to reduce their holdings of money when they expect prices to be rising. One can hardly do without any cash in the modern world, but nevertheless it is usually possible to substitute effort for liquidity. Corporations can buy relatively liquid short-term securities and try correspondingly harder to synchronize inflows and outflows of cash. Individuals can rely more on savings banks as a repository of funds, making correspondingly more frequent trips downtown to deposit and withdraw cash, and to transfer funds to a checking account just before large payments have to be made. Indeed they can, and the figures suggest that they do. It is true that this minimization of cash holdings costs time, trouble, and shoe leather. Clever comptrollers are thinking about cash management when they could be worrying about higher things. Moreover, and this is the point, these expenditures of time and effort are a real net burden to society, not merely a transfer to others. They are sometimes described as a "deadweight loss" to emphasize this. They are a true cost of inflation in the same sense that the maintenance of expensive police forces is a cost of crime. Some economists seem to regard these losses as the main social cost of pure inflation. But in that case, something very peculiar is afoot, because one finds it hard to believe that they amount to much. For *this* governments tremble and people cry on the pollster's shoulder? Even if you add in the computational difficulties of planning with changing prices, the discomfort that comes from not knowing whether your anticipations about future price levels are approximately right or dangerously wrong, it is hard to get excited.[7]

There is one other important "real" effect of anticipated pure inflation; it works through the tax system. Think of any progressive tax, a tax that takes a higher fraction of a higher income than of a lower income. Now let all prices, and thus all before-tax incomes, rise in the same proportion. Nobody's purchasing power has changed. But the general rise in nominal incomes will drive everyone into a higher tax bracket. If the general rise in prices amounted

[7] In very rapid inflations—what are usually called "hyperinflations"—the losses from holding money are so great that one observes a genuine flight from the currency, whence come the stories from Germany in the 1920's of children meeting their fathers at the factory gate to bicycle madly into town and spend the day's pay before it has had a chance to depreciate further. In such cases there may be a return to barter. This kind of disorganization of the economy and society can be very costly, but it is not what we have to talk about. Even at relatively small rates of inflation, a little ingenuity can sometimes invent substitutes for the non-interest-bearing checking account—e.g., the NOW account.

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to X per cent, incomes after tax will rise by less than X per cent, because of the higher effective tax rate, and the government's revenues will rise by more than X per cent, for the same reason. So taxpayers suffer a loss in purchasing power after taxes, and their loss is the Treasury's gain. Our tax system is not as progressive in action as it is on paper, but nevertheless this effect is quite real. The sharpest case is that of someone whose income is low enough not to be taxable at all; pure inflation can push such a person into the taxable range and thus impose a loss of real income.

In summary, a perfectly anticipated pure inflation imposes a small deadweight loss on society, mostly through a waste of effort directed toward economizing on the holding of money; in addition, it redistributes wealth, from holders of cash and checking accounts to banks, and from everyone to the Treasury. Not good, one is tempted to say, but no worse than a bad cold. Real GNP, for all its faults, is the best measure we have of the current production of valued goods and services; that's the number to watch.

Unanticipated inflation

Now real-life inflations are not perfectly anticipated. Neither do they come as a complete surprise. But different people have different opinions about the future of the price level; not all of them can be right, and most of them can be wrong. The consequences of this fact are important, but still special. Interest rates cannot adjust to cushion both debtors and creditors from the effects of pure inflation. Some people will be caught with their pants down: those creditors who have locked themselves into long-term loans at interest rates that do not fully reflect the particular rate of inflation that happens, and borrowers who have agreed to pay high nominal interest rates in the expectation of faster inflation than actually materializes. Of course, for each of these unlucky lenders and borrowers, there is a lucky borrower or lender. Needless to say, when the losers include the broad class of pensioners whose expectations of a viable old age are dashed, it is not a trivial matter.

These gains and losses are not restricted to loans. *Anyone* who has concluded a long-term contract of any kind, stipulated in money terms, stands to gain or lose, depending on which side of the contract we are talking about and whether the rate of inflation turns out in fact to be higher or lower than had been expected when the terms of the contract were agreed. (If rapid inflation continues, we can expect to see more long-term contracts with renegotiation claus-

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es, or with rates of payment explicitly tied to some index of prices. These are a form of insurance against windfall gains and losses from unexpectedly fast or slow inflation.)

Finally, it should be realized that many people, especially non-rich people, are more or less excluded from the benefits of higher nominal interest rates in an inflationary period. Small savers lack either the knowledge or the minimal stake needed to gain access to the sorts of assets whose yields will provide protection against inflation. The small saver is limited in practice to savings accounts and Series E government bonds. The rate on Series E bonds is not set by a market but is managed by the Treasury, and usually kept low enough to constitute a swindle on the non-rich. (One wonders what would happen if Secretaries of the Treasury were required by law to keep all their private wealth in Series E bonds.) The maximum deposit rate payable by savings banks is also limited by law, and by the peculiar role of those institutions as essentially nothing but mortgage lenders. Heaven does not protect the working girl.

The net result of all this is that imperfectly anticipated inflation—the only kind we have—generates massive redistribution of wealth between some borrowers and some lenders, some buyers and some sellers. From a very lofty point of view, these are still transfers, not a net burden on society as a whole. But that doesn't make them good. Moreover, in the public mind these transfers come to look like a net loss: The gainers attribute their gains to their own perspicacity, energy, and virtue; the losers attribute their losses to inflation.

"Impure" inflation

Pure inflation is an abstraction, though a necessary and useful one. If you can't understand the workings of pure inflation, you will never be able to understand what is actually happening. What is actually happening, of course, is a mixture: The general price level is rising, and at the same time relative prices are changing, sometimes drastically. The price indexes I described earlier are supposed to measure the pure inflationary component of the complicated set of price changes we experience. When I tell you that in the 12 months between June 1973 and June 1974 the CPI rose by 11.1 per cent, the WPI by 14.5 per cent, and the GNP Deflator by 9.7 per cent, I am saying something like: It is approximately as if there were a pure inflation of about 10 per cent, accompanied by a "pure" change in relative prices around a stationary level. In fact, I can add such information as this: The price of food went up by 14.7 per cent during

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the year, while rents went up by 4.7 per cent, so there was clearly a rise in the price of food relative to rental housing.

That is conceptually clear (though not quite as clear as I am pretending). The trouble is that what you observe and feel in the course of the year is the Total Experience, and it is by no means easy to sort out in one's mind the causes and consequences of a rising general level of prices and the causes and consequences of simultaneous changes in relative prices. This difficulty is complicated further by the fact that price movements are not synchronized. Even if, when all is said and done, the price of A and the price of B are both going to rise by X per cent, A may take off first and B only later. You would think that these timing differences would all come out in the wash, but they may actually have important independent consequences of their own.

The important thing to say about an inflation in which some prices and some incomes rise faster than others is that the *redistribution* of income can become both quite drastic and quite haphazard. It may be that real GNP is high and rising, so that the country as a whole is not being deprived of goods and services and the satisfactions they bring. But definable groups in the population may find their own standards of living deteriorating, either because the prices of the things they buy are rising faster than the average, or because the prices of the things they sell—including their labor—are rising slower than the average of all prices. And often enough it will appear to them that the inflation is the cause of their troubles, when in fact the real thief is the accompanying change in relative prices. Some economically and socially pointless or harmful redistributions can happen just because certain prices and incomes are less flexible than others and adapt sluggishly to a generally inflationary climate.

There are fewer valid univeral generalizations about these redistributions than one might think. The rhetorical commonplaces are not always true. It is often said that inflation is especially hard on the poor. One careful study by Robinson G. Hollister and John G. Palmer found that this was not the case in the inflationary episodes of the 1950's, and until 1967, if by "the poor" you mean those below the official poverty line (that is, pretty damn poor). Their figures show that a cost-of-living index weighted the way the poor spend their incomes rose no faster than, perhaps slightly less fast than, the official middle-income CPI. The sources of income that matter for the poor—mainly wages and salaries, Social Security benefits, and various forms of social assistance—just about kept pace with other forms of income in purchasing-power terms. And the poor have little

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wealth exposed to the risk of erosion. Hollister and Palmer conclude: "... because the relative position of the poor seems to improve during inflationary periods and overall real income gains per capita occur during such periods, the poor as a whole must be gaining both absolutely and relatively in economic well-being during periods in which inflationary processes operate."

But not all inflations are alike. Between 1947 and 1967, food prices rose a little more slowly than the CPI as a whole. In 1973, I hardly need tell you, food prices went up about three times as fast as the rest of the CPI. Poor people spend a larger fraction of their incomes on food than richer people do. Moreover, as it happens, food costs at home went up faster than restaurant prices in 1973, and hamburger faster than steak. It would not be surprising to find that the inflation of 1973 did contribute to a redistribution of income away from poor people.[8]

I have seen one press report—but not the details—that says that a poor person's cost-of-living index rose by 11.6 per cent in 1973, while the CPI was going up by 8.8 per cent. Moreover, it was one of the mysteries of 1973 that wage increases were smaller than almost anyone had expected. On both counts, then, the Hollister-Palmer result seems to have been overturned in 1973; in that year, inflation was at the expense of the poor. Others, though of course not every single person, must have gained.

Wages vs. profits

It is harder to be clear about another important question: how inflation affects the distribution of income between wages and profits. Pure inflation, by definition, has no effect at all; the question is whether the changes in relative prices typical of inflationary periods are biased one way or the other. The reason why it is hard to give a simple answer is that the effects of inflation are mixed up with other systematic effects, especially those having to do with upswings and (mild) recessions in economic activity. It is a fair generalization that, while everyone gains in an upswing, profits gain relatively more. That is primarily because profits are the main beneficiary of the special gains in productivity and savings in overhead that come

[8] Poor people spend a larger fraction of their income on housing than rich people do, and a smaller fraction on transportation, especially automobile transportation. So the run-up in oil prices has more complicated effects: The rise in fuel oil prices hits the poor worse than the rich, but the rise in gasoline prices affects the rich more than the poor. Of course, all this is apart from the fact that any reduction in purchasing power is harder to take when you're poor.

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from using industrial plant near its rated capacity. Correspondingly, in recessions, everyone loses, but profits fall more sharply than aggregate wages. Now, by and large the general price level is likely to rise more rapidly in upswings than in recessions (though, as we shall see later, one of the contemporary puzzles is an apparent weakening of this relation). So it may appear that faster inflation is associated with a redistribution of income away from wages and toward profits, when in fact what is happening has less to do with the inflation and much more to do with the real fluctuations in economic activity. The situation is made even more complicated by the fact that there may be other, longer-run forces operating on the distribution of income between wages and profits.

If one tries to allow for these other effects, it appears that minor differences in timing can make a perceptible short-run difference. There are episodes of inflation in which wages keep up or even ahead, as in the "creeping inflation" of the middle 1950's, and there are episodes in which wages lag behind, as apparently in 1973. But these timing effects are not permanent. The most important generalization one can make is this: The rate of inflation by itself has little or no long-run effect on the distribution of income between wages and profits. If, over the next decade, say, we imagine the average annual increase in the price level to be three per cent in one case, or six per cent in another, the distribution of income between work and property is likely to be about the same in either case. The division of those years between prosperity and recession is likely to be more important both for the level of real income and its distribution.

I have a more speculative suggestion to make—and you will see that the adjective is apt. Whenever prices are changing rapidly and drastically, there are opportunities for large speculative gains and losses. This is so even in the absence of inflation; if some prices go up and other prices go down, you can get rich quick by being on the right side. Inflation itself creates further opportunities for speculation, and makes the whole spectacle more opaque and confusing. The importance of speculative profits is magnified by the way our tax system favors capital gains. In an inflationary period, therefore, most of us watch the big rewards going to those who are clever enough to see what is happening a little faster than other people, or are simply privy to inside information, and who are sufficiently rich and well-placed to take advantage of their knowledge. At such a time the more traditional virtues of simple competence, diligence, and honesty do not pay off. Most of us do not like that. (Or do I simply mean that I don't like that?) Is this perhaps the redistribu-

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tion of income that bugs us most about irregular, imperfectly anticipated inflation?

The current situation

I would like to look a little more closely at the past year or so, in the light of this general analytical framework. It is hardly to be doubted that we are all—press, politicians, and public—more exercised about inflation now than in the past. Is there something special about this episode to account for its bad reputation?

Well, there is its intensity. A glance back at Figure 2 will show that the current rate of inflation is indeed rather high, at least by the standards of the relatively tranquil post-Korea period. (The use of year-to-year rates of change tends to smooth the picture a bit. The quarterly rates of inflation are scarier; but quarterly bulges are not so important.) Moreover, the rate of inflation seems to have been increasing since 1962. That may be enough to rate headlines. But we can hardly leave it at that. The whole of the preceding analysis tends to show that the social costs of inflation are complicated and tricky, and mostly redistributional. Moreover, to the extent that the inflation is correctly anticipated, many of those costs disappear. Even with the GNP Deflator rising at five per cent a year or more, either the public is kidding itself or there is more happening than has yet emerged.

Professor Benjamin Klein of UCLA makes the more subtle point that in olden times, even when there were occasional spells of drastic inflation or deflation, the normal long-term expectation must have been for a horizontal price level, because that was what actually occurred. Figure 1 confirms this: On the eve of the First World War the GNP Deflator was about where it had been in the 1870's. Klein suggests, after an analysis too technical to be explained here, that nowadays the amount of long-run uncertainty about the price level may be historically high and rising. We are less able to foresee the price level five or 10 years ahead than we were in the days when stability was a reasonable hypothesis. If this inability to anticipate is actually perceived, then perhaps the current inflation is unusually burdensome. Nevertheless, I find it hard to believe—nor does Klein strongly urge—that this extra uncertainty can be the major explanation of the inflation-consciousness of the past couple of years. Either there is something more to explain or we are in the midst of a great optical illusion.

The important question is, as I hope everyone realizes: What has

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been happening to the aggregate production of real goods and services in the economy? For that, we turn to the figures for GNP in 1958 prices. Real GNP rose from $812 billion in the fourth quarter of 1972 to $846 billion in the fourth quarter of 1973. The increase for the year as a whole was 4.2 per cent, much faster at the beginning of the year, almost stagnant toward the end. Par for the course is about four per cent a year. To drive that home, let me give the figures for "real disposable income per person," a measure of actual take-home purchasing power, including such things as Social Security benefits and welfare payments, but excluding income taxes, undistributed profits of corporations, and other sums that are not available for spending, all corrected for the change in consumer prices. It rose from $2,841 per person in the fourth quarter of 1972 to $2,952 in the fourth quarter of 1973 (in 1958 prices). So all during 1973, despite the run-up in prices, the American population was *on the average* better off. It is not possible that the inflation hurt everyone; indeed, the gainers must have out-numbered the losers.

During the first part of 1974, the story was different. There was, as everyone knows, a sharp recession. (I use the word non-politically; it means that real output fell, rather sharply in the first quarter very slightly in the second, and again in the third. Actually, the slower-than-trend growth in the last three quarters of 1973 would feel like recession.) Real GNP was down to $821 billion by the fall of 1974. Correspondingly, real disposable income per person fell to $2,837. It would indeed have been possible for everyone to be worse off in the middle of 1974 than at the beginning, though of course that is not what actually happened. In the aggregate, however, the losers must have outnumbered the gainers in that period. But it was the recession, not the inflation, that did the damage. If that strikes you as paradoxical, considering that the recession was allowed to run its course mainly as a way of fighting inflation, then you are beginning to see your way into the problem.

During the year and a half between the beginning of 1973 and the middle of 1974, the CPI rose by 16 per cent, the WPI by 30 per cent, and the GNP Deflator by 12 per cent. Naturally, it was not a pure inflation. There were very substantial changes in relative prices. There usually are, only this time they were sharper than usual. The food component of the CPI was 25 per cent higher in mid-1974 than it had been a year and a half earlier; the raw farm products component of the WPI was up by 25 per cent, and the processed food component by 27 per cent. The rise in the price of food was not uniform either, but that is enough to give the flavor.

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I need not document the terrific increase in the price of oil and its derivatives; but perhaps it is worth pointing out that the non-food, non-fuel "crude materials" component of the WPI rose by over 50 per cent during the 18 months in question. Oil was not the only natural resources product to become more expensive relative to other things.

The impact of relative-price increases

Now it is very important to realize that these relative-price increases were not themselves a symptom or an effect of the inflation of 1973-1974. (I intend to come to the sense in which they may have been a cause.) They reflected the operation of the real forces of supply and demand. (For present purposes we may as well classify political shenanigans in the Middle East as simply a monopolistic restriction of supply.) The point is that if the world economy were run on a barter basis, food, fuel, and raw materials would have become dearer relative to other things.

One other factor should be mentioned here, though I cannot discuss it in any detail. During the same period, the dollar was depreciating by some 10 per cent against the other major currencies of the world. This would make imported goods more expensive relative to domestically produced goods, another sort of relative-price change. There were probably additional effects on U. S. prices stemming from our major role in the world market of agricultural commodities. Moreover, there had been an earlier (1971-1972) depreciation of the dollar of about the same order of magnitude, and it is possible that some of the price-effects of that depreciation were being felt for the first time in 1973. In any event, imports were certainly rising in price; that is, after all, the function of a currency depreciation.

We have now identified three directions in which relative prices were changing sharply in 1973-1974. Food, fuel and materials, and imports were becoming relatively dearer, for reasons that had more to do with crop yields, oil production, and increasing demands for materials than with inflation. So what? Such changes benefit some people and harm others. Why should they make this inflation feel worse than others?

Here is a speculative hypothesis. Look at the identity of the beneficiaries of these rather massive changes: The rest of us have transferred large amounts of real income to farmers, to owners of mineral deposits, to oil companies, Texas millionaires, and Middle

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Eastern potentates, and to foreigners generally. They are better off and we are poorer. I am not now in the business of pronouncing moral judgments, certainly not about farmers and foreigners generally, though I confess I'd like it a lot better if the oil were in India or China instead of Texas and the Persian Gulf. My point is descriptive: In the course of this inflation, though largely for other reasons, the winners have been narrow, peripheral groups, and the losers have been the broad blue-collar and white-collar, working class and middle-class, urban industrial center of the economy. No wonder it feels to most of us that there have been only losers; we do not feel for the winners.

I mentioned earlier that so far in this inflation wage rates had not increased very sharply. Profits, on the other hand, have been rising strongly, especially after allowance for the brief recession and some longer-run erosion of profits that appears to have been going on. But, whatever euphoria the strong profit performance might have contributed to its beneficiaries has probably been cancelled out and more by the dismal behavior of the stock market. So once again, no one is happy.

There would seem to be no way to test such speculations; maybe that is their charm. If I am right, however, a reminder is in order: We (non-farmers, non-oil-millionaires, non-foreigners) would feel just as bad if the underlying price changes had taken place around a stable price level, with no inflation at all.

What are the causes?

There is a vast and subtle literature on the causes of inflation and the mechanism of the inflationary process. I cannot hope to survey it fairly, especially since it contains contradictory strands. My sketch of the state of play may be idiosyncratic.

One of the central issues in the theory of the subject—with roots going back hundreds of years in economics—concerns the nature of the connection between monetary goings-on and the real economy of production, consumption, and relative prices. The very concept of inflation presupposes a monetary economy, as we noted earlier. Moreover, our discussion of the simplified meat-and-vegetables economy seemed to lead to a proposition like this: You could imagine two identical islands, one of them (A) with unchanging prices and the other (B) experiencing perfectly anticipated pure inflation at X per cent per year, but with exactly the same *real* events taking place on both of them. The main preconditions for this conclusion

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are (1) that the money supply should be increasing X percent a year faster on island B than on A, so that the amount of purchasing power represented by the money supply could be the same in both places, and (2) that it be possible to pay interest on whatever is used for money, say bank deposits, so that the nominal interest rate could be X per cent per annum higher on island B, to keep the real rates of interest equal.

Now that is pretty abstract; but the further development of such reasoning leads one school of economists to conclude that the real and monetary spheres are in principle separate, and that the true and only cause of inflation is excessively fast expansion of the money supply. It follows that the only way to reduce or stop inflation is to slow down the growth of the money supply. Moreover, if the real and monetary spheres really are separate, then doing so will not have real effects, and will thus be quite harmless. (Of course, one can argue that if inflation has no real effects, or negligible ones, there is hardly any point in stopping it.)

I hasten to say that this is a caricature. This school of thought recognizes perfectly well—and the recognition goes back to David Hume—that real-life inflations are not pure and perfectly anticipated. Any attempt to slow or stop an inflation by tightening money will certainly have redistributional effects and may well cause recession, diminished production, unemployment, and excess capacity. All the "new Quantity theorists" claim is that these real consequences will not last forever. Eventually, as the new state of affairs comes to be embedded in expectations and business decisions, the real effects will disappear. Island B will get to be like Island A. The intervening period of bad times has to be regarded as an investment whose payoff is the reduction of inflation, whatever that is worth.

A practical man would want to know how long that period of bad times is likely to last. The new Quantity theorists are not really able to say, and it is hard to blame them. It is a difficult question, and the experiment has never been tried. The sterner protagonists of this view have occasionally hazarded the guess that the period of purification might conceivably last a long time, to be measured more nearly in decades than in quarters. A political figure like Herbert Stein will not say that, but he did say in July that inflation is "a serious and dominant problem which will require the maintenance of a policy of restraint for the remainder of this year and beyond that."

This question of timing is an analytical question as well as a practical one. The opposing school of thought holds—to caricature

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once again—that there is a permanent connection between the monetary sphere and the real economy. But what does "permanent" mean? Presumably it does not mean literally forever; nothing is forever. If it means "a long time"—as, for instance, decades—then the distinction between the two schools seems to be more a matter of emphasis or taste than of principle, more a matter of applied economics than of pure theory. But those questions of application are terribly important, as we will see.

The "trade-off" view

I shall give a grossly oversimplified sketch of one version of the alternative doctrine. It is based on the famous "Phillips curve," named after A. W. Phillips, who started the whole thing with a purely statistical study of British figures. Let us take it for granted that for extended periods of time in many countries there is a reliable inverse relationship between the unemployment rate (to be thought of as a measure of the degree of prosperity) and the contemporaneous percentage rate at which the level of wages rises. That is to say, in a year in which the economy is strong and the labor market is tight, workers—individually or through their organizations—will be inclined to hold out for relatively large wage increases, and employers will be inclined to offer them; in a depressed year, when the unemployment rate is high, workers will be less pushful and employers will feel more hard-pressed and hard-boiled. Naturally, there are other forces affecting the behavior of wage rates, but this is the one we are concentrating on. Observe carefully: The Phillips curve is a relation between the rate of increase of wage rates (a *monetary* magnitude) and the unemployment rate or level of production (a *real* phenomenon). I have given a plausible but casual rationalization of such a relation; I must warn you that this apparently simple proposition has been the object of whole volumes of the most subtle theoretical and empirical research, which is only beginning to converge. There are still wide differences of opinion within the profession.

So much for wages. If there were no improvements in productivity, labor costs per unit of *output* would move along in step with wage rates (i.e., labor costs per *hour*). Since productivity is generally rising, though not uniformly, labor costs per unit of output rise more slowly than wage rates. In fact—subtleties aside—unit labor costs rise when wages rise more rapidly than productivity in percentage terms, decline when the opposite holds true, and remain

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constant when wage rates and productivity both rise at the same percentage rate.

But we are interested in prices, not only wages. The simplest acceptable preliminary explanation of the behavior of the price level in the private non-farm economy is that it is cost-determined. Market conditions are clearly part of the story too—think of oil!—but for simplicity let us just keep that in the background. Suppose that the general price index simply comes out as a mark-up on unit cost of production. That is practically the same thing as a mark-up on unit labor cost, since labor costs amount to more than three quarters of all costs in the economy as a whole. If the price level is roughly proportional to unit labor costs, then the price level will rise when unit labor costs rise, fall when they fall, and stay the same when unit labor costs are stable. So the price level will rise, fall, or remain unchanged according to whether wage rates are rising faster than, slower than, or at the same pace as productivity.

But the wage level—apart from the other market forces we are now ignoring—rises faster when the unemployment rate is low, and slower when it is high. And so the price level—again ignoring other market forces—rises when unemployment is low and the economy prospers, and falls when unemployment is high and the economy is depressed. This is the famous "trade-off between inflation and unemployment" that has found its way into everyday talk. A stable price level can be achieved only at that unemployment rate that allows wages to rise about as fast as productivity is increasing.

According to this line of argument, the real and the monetary are intimately connected. The rate of inflation is governed by the real condition of the economy, in particular by its "tightness" or prosperousness. Moreover, the options for policy are clear but limited. Society can have a slower rate of inflation or no inflation at all, if and only if it is prepared to generate and maintain enough unemployment and excess capacity to hold prices and wages in check. Years ago Paul Samuelson and I conjectured that the corresponding unemployment rate might be in the neighborhood of 5.5 per cent of the labor force; and events suggest that it would now be higher. If the policy choice is really limited by the "trade-off" then there is no avoiding the question: How much is it worth to reduce the rate of inflation, and how much does it cost to live with higher unemployment and lower production? If you think back to our discussion of the social costs of inflation, at least of moderate inflation, it is hard to avoid coming away with the impression that they are minor compared with the costs of unemployment and depressed

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production—especially since the redistributive costs could in principle be cancelled out by actions designed to protect or compensate the potential losers.

The reply of the trade-off school to the monetary school is: Yes, tight money and balanced budgets can stop inflation, but only by depressing the economy for a long time, perhaps a very long time. The "old-time religion" preached by Herbert Stein and his successor Alan Greenspan is (as Karl Kraus said of psychoanalysis) the disease of which it purports to be the cure.[9]

An unsettled question

The doctrinal dispute I have been describing obviously goes deeper at the level of analytical principle than at the level of practical economic policy. At the analytical level there are wheels within wheels that I haven't even mentioned. So far as policy is concerned, it seems to be mainly a matter of timing. Whatever their sterner members mutter, the monetary school acts as if you could squeeze the inflation out of the system in real time; the period of restraint and unemployment would not be so long as to be impractical or worse. Their opponents estimate the period to be longer, and they are less willing to swallow the intervening unemployment anyway. So there is a difference, but a vital difference, mainly in tone. That is why the newspapers report that "liberal" economists have nothing especially new and different to offer in the present circumstances. (Perhaps I should mention, for those who have not seen a scorecard, that members of the "monetary" school tend to be politically conservative and members of the "real" school are more likely to be politically liberal, though there are exceptions.)

The actual behavior of the American economy from the end of the Korean War price controls to the middle 1960's seemed generally to confirm the trade-off view. That is to say, there seemed

[9] I should mention two quite different policy options, though I don't want to discuss them in detail. One is the imposition of price and wage controls of varying degrees of stringency. There are arguments and counter-arguments as to whether such controls can be effective, and, if they are stringent enough to be effective, whether they are likely to have destructive side-effects on the working of the system. The second option is an organized attempt to "improve the trade-off"—i.e., to make a lower rate of wage and price increase correspond to any given unemployment rate, either by union-busting or trust-busting, or by a program of manpower policies designed to improve skills and open up labor markets. Some people say that recent experience shows that manpower policy doesn't work; others point to the small size and piecemeal character of the programs and argue (as Bernard Shaw said of Christianity) that manpower policy has not failed, it hasn't been tried.

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to be a reasonably reliable relation between the tautness of the economy and the behavior of wages and the price level, after the various other market forces had been taken into account. Beginning about 1966 there was a perfectly classical inflation associated with the deliberate malfinancing of the Vietnam War. (Can it be that wars get the economic policy they deserve?) But thereafter something seemed to go haywire. There has been, more or less ever since, a tendency for wages and prices to rise faster than those old, previously reliable relationships would have predicted. In retrospect, for instance, it appears that the belated tax increase of 1968-69 did, somewhat slowly, have the right sort of effect on real GNP; but the softening of the economy failed to slow down the inflation as effectively as it might once have done.

The profession responded to these happenings in several ways. George Perry made a strong and interesting case that the trade-off had worsened, mainly for reasons connected with the age and sex composition of the labor force, and the differential experience of women and the young in the labor market. Otto Eckstein concluded that the trade-off was pretty sound so long as the unemployment rate was higher than some critical value in the neighborhood of 4 or 4.5 per cent, but that near the critical rate the labor market tended to explode and behave more or less the way the monetary school thinks it always behaves. The monetary school argued that it all went to show that there could be only a short-run connection between real things and monetary things. Workers and employers are *really* interested in *real* things; as soon as they see what is happening and learn to *expect* the inflation, they will behave so as to disconnect all real events—like the unemployment rate—from any relationship with purely nominal magnitudes like the rate of inflation. Thus any attempt to use the short-run trade-off must come to naught eventually.

The dust has not yet settled on all this. Statistical analysis of the one run of observations history gives us is a poor substitute for controlled experiment, but it is all economists have. It may be a long time (that word again!) before this question is settled. I want to turn instead to a broader interpretation of recent history.

Are we in a whole new ball game?

In trying to understand the accelerated inflation of the last few years, it is worth remembering that the same thing has been happening everywhere. Here, for instance. are the percentage rates of

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increase of the CPI for a number of advanced countries between Jan./Feb. 1973 and Jan./Feb. 1974:

Country	Percentage Rate of Inflation of CPI
Japan	24.1
Denmark	14.6
United Kingdom	13.2
Italy	12.6
France	10.9
Switzerland	10.8
United States	9.7
Canada	9.3
Norway	8.7
Sweden	8.4
Austria	8.3
Netherlands	8.2
Belgium	7.9
West Germany	7.5

You will notice that the United States is somewhere around the middle of this league. A similar table compiled for 1970-71, say, would show rates of inflation centered around five per cent rather than 10 per cent.

By itself, the universality of inflation tells us very little. It could come about because all countries are exposed to the same forces, characteristic of modern advanced economies, or because the international trading and monetary system works to spread the impact of forces originating anywhere in the system, or because different countries happen to be inflating for different reasons, and find it easier to do so when others are doing the same. Or the explanation could involve elements of all these possibilities. I am going to concentrate on the first line of explanation; but I believe each of the other two has something to say. My main reason for insisting on the importance of these comparative figure is to warn that no entirely parochial account of the causes of inflation will do.

Modern mixed-capitalist economies seem to have an inflationary bias near full employment. That is a description, not an explanation, but it seems to summarize the situation. An economy that is running along moderately prosperously, but hardly straining its capacity to produce, will see its price level drift upward. In the good old days, the demands of war or the stimulus of excessively expansionary policy might bring an economy to flat-out operation and consequent inflation, but a return to more normal levels of demand would stabilize prices, and a touch of recession might bring on actual deflation. The trouble is that nowadays economies begin to inflate while they are showing no signs of excess pressure, and to reverse the price rise would appear to require longer and

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deeper recessions than seems reasonable or natural. The question is: Why should that be? Why, for instance, do so few prices ever actually fall?

Let me answer a question with a question. Is it possible that the price level was *more* stable on the average in the good old days because the economy was *less* stable on the average? More particularly, until very recently it was reasonable to fear that any momentary weakness in the economy might be the prelude to substantial and prolonged recession. Under those circumstances, businesses might see the wisdom of cutting prices early and often, to protect markets and market shares against competitors in their own and neighboring industries who would also be feeling the pinch of widespread market softness. The same fear might be expected to stiffen the resistance of employers to wage demands; a longish period of reduced sales and lowered prices is no time to bear the burden of higher wage costs, and discontent in the workplace is easier to handle when production has to be cut back anyway. To complete the circle, the danger of prolonged unemployment would induce workers to accept wage reductions, or at least reductions relative to long-term productivity gains. It is not hard to believe that the reality of major recessions and depressions would account for greater flexibility of prices and wages in the downward direction.[10]

If the threat of prolonged recession is absent, the situation is quite otherwise. There is less pressure to reduce prices when markets soften, if it is expected that they will soon improve. Similarly, there is less incentive to resist wage increases if prices are being maintained or even raised themselves; and if production will soon need to be increased, one is less likely to tempt strikes, ill will, and the reputation of being a lousy employer. Finally, when mass unemployment is unlikely workers are able more confidently to keep up the pressure for higher wages.

The inflationary bias

Here, then, we have the beginnings of an explanation of the inflationary bias of modern economies near full employment. Work-

[10] The same argument would work in reverse. Prices and wages would respond more quickly and amply upward when markets tighten. In fact, the knowledge that prices could easily rise or fall later would make it easier to let them fall or rise now. All that I need from this argument is an explanation of the fact that prices used sometimes to fall. If prices never fall, there is no way the price trend can ever be horizontal.

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ers and employers nowadays fear prolonged recession and mass unemployment less than they used to, *and they are right.* Those things are very unlikely to happen. Modern governments know how to prevent major depressions, they have the legislative and administrative tools they need in order to apply their knowledge, and they have the motivation: No government could survive in an advanced democracy if it permitted a major depression and serious unemployment on a scale that occurred more or less regularly in the good old days. So 1932 will not come around again, and there is not much reason to look for those forms of behavior that were conditioned by the ever-present possibility that it might.

If this is a reasonable explanation of the fact that prices hardly ever fall, then it is not hard to suggest why they should seem always to be rising. In any developing and changing economy, there will always be good reasons why *relative* prices have to change. Technological progress proceeds at different speeds in different industries, so relative costs of production are changing. Consumer demands shift, from grains to meat, from wool to synthetics, from hats to jeans, from restaurants to home freezers and back to restaurants. As in the meat-and-vegetables economy, it is possible for relative prices to change while the general price level remains constant: All that is necessary is that some prices rise and some prices fall. But if most prices have got out of the habit of falling, the only way that relative prices can change is for all prices to rise, but some more than others. If prices are inflexible downward, then normal market forces will set up a more or less perpetual tendency for the price level to float upward.

I said at the outset that I was going to offer some speculations. I don't know if they are true, or even how you would go about deciding if they are true. But if you find this story plausible, it contains an account of our most recent inflationary episode that does not rest on any presumed Latin-Americanization of the world. The last few years have seen at least three major shifts in relative prices, each the result of "real" forces of supply and demand. I mentioned them earlier: major world-wide increases in the prices of food and of oil and some other raw materials, and, for the U.S., a rise in the prices of imported commodities generally. If you superimpose these massive shifts on the sort of world I have just been describing the consequences could be a prolonged merry-go-round of price increases. The price of grain or oil rises, because it has become relatively scarce. But then costs rise elsewhere in the economy and, in the absence of any inhibition, other prices float up to register the

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cost increases. But then the initial increase in the price of grain or oil will not have eventuated in the full relative-price increase demanded by the underlying market realities, so those things will go up some more, and so on. The process need not go on forever; it will come to an end when grain and oil have risen enough faster than prices in general so that the required shift in relative prices has been generated. In the process, the whole price level will have floated upward, perhaps quite a lot.

"Biting the bullet"

An inflationary episode set off in this way may therefore be self-limiting. It might still be possible to bring it to a halt sooner by a dose of the "old-time religion"—that is, by inflicting recession and unemployment on the economy long enough and deep enough to make it feel more like the good old days. It may even be the case that after a few doses of this medicine the old apprehensions would return, prices would become more flexible downwards, and the treatment would not have to be repeated again for a while. Maybe. But if the characterization I gave earlier of the social costs of inflation is anywhere near the mark, one must really wonder if there is any defensible set of values that would make this policy a bargain.

One argument for "biting the bullet" is that, unless the bullet is bitten, the public comes to expect inflation. The expectation of inflation in turn leads people to make decisions in a way that generates and perhaps accelerates inflation, thus confirming the expectation; and once inflationary expectations become entrenched in economic psychology, it becomes a harder, longer, and more painful process to squeeze them out of the system.

Now very little is known about what "the public" expects, how it forms its expectations, and how its expectations influence its decisions, so this is a hard argument to be precise about. There is clearly something to it. No one would disagree with the notion that prolonged experience of inflation predisposes people to expect more of it. Furthermore, as our earlier discussion of anticipated inflation indicated, those who expect inflation can often find ways to protect themselves against being harmed by it, against being numbered among the losers. This possibility extends to all sorts of economic decisions: wage bargains, pricing policies, commitments for raw materials, as well as borrowing and lending. To the extent that a rising price level is, as I have tried to suggest, the modern economy's way of adjusting to change, to the extent that the inflation is trying to accomplish

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something, it is probably true that the spread of inflationary expectations requires a faster inflation to accomplish the same thing. The more nearly everyone can protect himself against rising prices, the faster must the price level rise to bring about the real changes it is "trying" to register.

There is a kind of mind that now finds it irresistible to leap to the conclusion: One must absolutely stop inflation now, or it will go faster and faster and faster still, as inflationary expectations become embedded, until the economy collapses in a burst of hyperinflation. But history offers very little evidence to support that conclusion. The public harbors a wide range of expectations, acquires them and changes them in mysterious ways, and acts on them only partially. The "slippery slope" argument may reveal a logical possibility, but it does not tell a likely story. If the economy actually worked that way, there would be more hyperinflations than we have actually seen—and some of the ones we have seen do not look like illustrations of the expectations story. It is a good story, but not good enough to make me bite a bullet.

Even if hyperinflation does not lurk around every corner, is it possible that we have already gone dangerously far? Is there something qualitatively different about "double-digit" inflation? By any algebraic standard, of course, the difference between nine and 10 is no larger than the difference between eight and nine, perhaps even smaller. It is certainly true, however, that for those who fail to anticipate the price level, a faster inflation is more damaging than a slower one. Moreover, our financial institutions are adapted to the kinds of circumstances in which they evolved. Just as floating exchange rates were unsettling to banks with little or no experience in foreign exchange markets, so also higher interest rates and more rapidly changing prices open the way to serious mistakes (and lucky killings) on the part of financial institutions and other businesses. But here one must be alert to the habit of blaming everything that happens on "inflation." Tight money and high interest rates would squeeze thrift institutions between high deposit rates and low rates on old mortgages even if the price level were steady as a rock. Oil-intensive businesses would be in trouble when fuel prices rise even if other prices were falling. There is no abyss, just potholes.

Explaining the upward float

The sort of story I have been telling is closely related to some ideas put forward by Charles Schultze almost 20 years ago. Schultze

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was trying to explain the creeping inflation of the middle 1950's. His argument was that the years 1955-58 had seen something like an investment boom. It was natural that the prices of capital goods—machinery, metals, buildings, construction materials—would experience a relative-price increase. But since few prices ever actually fall, the result is likely to be an upward float of the price level. To explain the reluctance of prices to fall, Schultze relied more on the pricing practices of oligopolistic industries, whereas I have stressed the evaporation of the discipline imposed by the fear of recession. Both forces operate in the modern economy. One could try to eliminate anti-competitive practices (and public policies); but the absence of the fear of depression is a hard-earned victory. One might say, then, that I have generalized Schultze's notion of "demand-shift inflation" to include "supply-shift inflation" or "any-shift inflation."

Another complementary line of thought originated in the last few years with the Norwegian economist Odd Aukrust, and has lately been developed in a book by Gosta Edgren, Karl-Olof Faxen, and Clas-Erik Odhner who are (how do the Swedes do it?) the chief economists of the Swedish Trade Union Organization, Employers Confederation, and Organization of Salaried Employees. The idea applies mainly to economies with large foreign-trade sectors, and so has only minor relevance for the United States. But the flavor of the argument is interesting. These authors divide the national economy into a "competitive sector" that is exposed to foreign competition, either in order to export or to compete with imports, and a "sheltered sector" that is not. With fixed foreign exchange rates, prices in the competitive sector are beyond the control of the home economy. Those prices are determined in world markets and all that a single small country can do is to accept them. Collective bargaining—which is highly centralized in the Scandinavian countries—will then divide up the proceeds in the competitive sector; in particular it will decide whatever happens to the wages of those workers with jobs in that sector. It is two-party bargaining, in the sense that whatever goes to wages beyond productivity gains gets taken from profits. Employers exposed to international competition cannot "pass on" increased wages to consumers, and both parties know it.

Now look at the sheltered sector. First of all, workers of equal skill and ability must earn the same wage wherever they work, or else lower-wage industries will be unable to recruit labor. (This is no doubt truer in a small unitary country like Sweden than in a

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large diverse society like the United States; but even here, the same tendency is at work.) Moreover, the Swedish unions have long pursued a policy of narrowing wage differentials where they can. The result is that the wage levels set in the competitive sector apply to the sheltered sector too. Now partly by happenstance and partly for sound economic reasons, the competitive sector is made up largely of highly productive and technically progressive industries. They tend to pay high wages, and increasingly high wages. These wage rates can be met by the technologically less advanced industries of the sheltered sector only if either their profits are perpetually squeezed, in which case they will eventually fail, to no one's advantage, or if their prices rise. Needless to say, their prices rise. Thus even if world prices in the competitive sector were nearly stable, the economy as a whole would inflate.

The Swedish authors regard it as a sensible object of policy to have stable prices in those industries with the fastest increase in productivity, and rising prices elsewhere. They are too polite to say so, but they appear to regard the American fetish of a stable overall price level as a kind of hysterical fantasy—an insistence on the desirability of something that we cannot have at any reasonable cost, and that is not actually worth wanting so much.

Here is one last application of the same way of thinking. Labor-market experts agree that the pattern of relative wages—of differentials by skill level, by occupation, by industry—has an extraordinarily persistent life of its own. No doubt it corresponds in part to economic reality, and in part to strong feelings of equity and propriety in the workplace. Once disturbed, the traditional structure reasserts itself. But then consider a large and decentralized economy like our own, operating reasonably prosperously but not necessarily at very high pressure. There is bound to be a stream of occasions when some group in the labor force, somewhere, will succeed in getting a substantial wage increase. It may come about because a successful trade union is able to bargain its way to a notable victory, or because piece-workers are able to capitalize on a major increase in productivity, or because an expanding industry bids up wages in an effort to acquire labor. Such a local gain inevitably disrupts the traditional relativities, and sets in motion an attempt to restore them. Piecemeal, with timing depending on the expiration of contracts and other more or less extraneous factors, other wages will rise, and the traditional pattern may be further disturbed. Eventually, something like the old structure will be restored, but inevitably at a higher level of wages and, therefore, prices. It's

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the same story: The system of wages and prices accommodates to relative changes by floating upward.

What is to be done about it?

The tail of conclusions on this large dog of an article is going to be short. This analysis of contemporary inflation does not lend itself to a sweeping Solution. In fact, it suggests that there has been altogether too much leaping to Solutions without any clear understanding of the nature of the Problem. On close inspection, the social costs of ordinary inflation turn out to be mostly a matter of socially useless or harmful redistributions of purchasing power. Since there are straightforward ways of repairing that kind of damage if we seriously want to do so, it appears that most of the sweeping solutions that have been proposed—such as a prolonged dose of unemployment and underproduction, or universal and rigid price controls—are likely to be at least as costly to economic efficiency as the problem they are intended to solve.

We might better be concerned to find effective ways to protect or compensate the innocent losers from inflation. There is no need to contemplate anything so drastic as universal indexing, as some have proposed, but a little well-aimed indexing would certainly be a step ahead. The most important such step has already been taken—the automatic correction of Social Security benefits for changes in the cost of living. Second, it could only be a good idea to provide a limited issue of a special saving instrument for small savers, a Treasury bond that pays a stipulated *real* rate of interest. The third such reform that comes to mind is a bit touchier, but only a bit: the indexing of the personal income tax, so that inflation does not automatically increase the effective tax rate, especially on those near the bottom of the income scale. The only reason for hesitation is that in classic demand-pull inflations the rise in the effective tax rate is an automatic stabilizer, tending to damp the inflation itself. But surely it would be better to have sensible discretionary fiscal policy.

Such devices would make moderate inflation easier to live with, if it should turn out to be inevitable. They may also contribute to the effectiveness or at least diminish the riskiness of anti-inflationary policies. To the extent that they divorce the real from the monetary, they make it less dangerous to tinker with the price level.

It has been suggested to me that the implications of this whole argument are defeatist: Democratic governments will always or often allow the economy to drift into an inflationary situation, if

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only because that will frequently be easier than confronting difficult choices; having done so, they will be unable to confess error and set about rationally trying to protect those who might unjustly be hurt by the initial mistake and its consequences. I am not completely convinced by this story as a piece of political science, nor do I know what follows from it anyway. Perhaps I should be interpreted as wishing that it might be regarded as an even graver confession of error to inflict recession and unemployment on the economy and thus hurt nearly everyone merely to cover up an inability to correct the distributional consequences of an essentially unavoidable "mistake." I especially deplore the habit of excusing this policy by attributing to inflation all sorts of costs that have, in fact and logic, very little to do with inflation itself.

I have suggested that slow inflation may be endemic to modern mixed capitalist economies that are determined not to tolerate severe slumps and are known to have both the determination and the ability to avoid them. Inflation is their characteristic way of adapting to change. The unusually rapid rise in prices during the past year and a half may simply reflect the fact that the world has been called upon to absorb some unusually large changes. In that case, it will burn itself out. The current situation is certainly not pleasant—it is a prize example of an unanticipated impure inflation. But panic-stricken policy responses will simply add injury to insult.

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Unemployment and the "dual labor market"

PETER B. DOERINGER & MICHAEL J. PIORE

SINCE the end of World War II, the United States has experienced persistently high unemployment. There have been 19 postwar years in which the unemployment rate exceeded four per cent; in 11 of those years it surpassed five per cent; in only four years did it fall below 3.5 per cent. This is a record far worse than that of any of the industrialized nations of Western Europe or Japan.

To explain this situation there were, until recent years, two divergent theories, the "structuralist" and the Keynesian. The structuralists argued that its principal causes were technological displacement, shifting patterns of industrial production, foreign competition, and similar features which disrupted the matching of jobs and workers in the labor market. The Keynesians, on the other hand, were less concerned about labor market imbalances. They saw the labor market as a long "queue": If the government's macroeconomic policies stimulated expansion, then eventually almost everybody in the line would be absorbed; where such policies were cautious and failed to keep pace with an increasingly productive labor force or the influx of workers into the market, unemployment would rise.

Both these interpretations saw unemployment as involuntary—i.e., individuals were actively seeking jobs and unable to find them

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—but their remedial policies differed. The structuralists argued for programs to correct imbalances through training and relocation—an approach that was embodied in manpower legislation in the 1960's. The Keynesians favored increasing demand through more aggressive monetary and fiscal policies.

Now the policy debate has been complicated by a third explanation, which disputes the *chronic* and *involuntary* character of unemployment, and argues that a significant portion of the unemployment in recent decades is both *temporary* and *voluntary*. This is the argument, for example, of Martin Feldstein in *The Public Interest* ("The Economics of the New Unemployment," No. 33, Fall 1973). It holds that the measured level of unemployment exaggerates the degree of underlying imbalances in the labor market. In the case of youth, where the unemployment rates have been double or triple that of older workers, Feldstein argues that many young workers adopt a casual attitude to work, holding many jobs briefly, with spells of unemployment in between, and prefer this as a way of life. More generally, it is said that much of our unemployment does not reflect any Keynesian "shortages" or structural skill imbalances, but results from the fact that many jobs are unattractive because of low pay or other undesirable characteristics; thus individuals choose an in-and-out pattern, combined with unemployment compensation, rather than stick to such jobs as steady work.

There is some evidence to support this view. In periods of both high and low unemployment, the duration of joblessness tends to be surprisingly short. More than half the unemployed are "job searchers," individuals who have just entered the labor market or have quit to change jobs. These "voluntary" movements are especially common among women and young persons, the groups which have composed a growing fraction of the unemployed in recent years. Many of the unemployed, particularly among the relatively low-paid, can find work, but only in dead-end jobs. Much unemployment, therefore, seems to be "voluntary," in that jobs may be available but are undesirable; and this is why the overall rate is high and the turnover of the jobless is so large.

This view of unemployment has gained a variety of adherents. For economists, it has the attraction of newly discovered "facts" that seem to contradict much of the conventional wisdom in the field. For policy makers, particularly those advocating free markets and fiscal conservatism, it challenges the interventionist thinking that guided employment and training policy in the 1960's. From such data, it is but a short step to argue that responsibility for unemploy-

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ment should be shifted from the public sphere (where it rested in the 1960's) to individuals. The failure of workers to take jobs, not inadequate aggregate demand or ineffective manpower policies, becomes the root of unemployment. Where labor market policy is to be faulted is in its intrusion into the structure of employment incentives through welfare, unemployment compensation, and minimum wages. Given the new interpretation of unemployment, it is argued that the effort to reduce unemployment to a three or four per cent level by Keynesian or structuralist policies is misguided. In short, the unemployment problem may best be "solved" by accepting more slack in the economy and by reducing some of our social welfare arrangements.

The nature of labor markets

What is clear is that the "conventional" explanations of unemployment, or more specifically, of the nature of labor markets in American society, are inadequate. Even though there is some agreement on the *facts* about "voluntary" unemployment, there is certainly less agreement about the reasons for such unemployment, and still less about the policy consequences that would derive from such facts. Behind all this controversy is a major effort within economics to recast the old theories and find some better explanation for how individuals behave in the labor market. It is only by going to these theories, and the differences among them, that we can seek to understand the "chronic" character of unemployment in the United States.

Within the terms of the current debate, there are three somewhat conflicting approaches to understanding the character of labor markets and the responses of individuals to them. These are: 1) human capital theories; 2) job search theories; and 3) dual labor market theories.

1. *Human capital.* The human capital perspective on the labor market is most commonly associated with economists at the University of Chicago, particularly Gary Becker. It takes as its model the rational economic man who acts to maximize his returns, and extends this to labor market decisions. The theory of human capital treats unemployment as part of a concern with the determinants of earnings. Unemployment, like income, is thought to reflect differences among workers in ability, in levels of training and education, and in types of work experience. The latter two, it is argued, are to be understood in terms of "investment" decisions of time and money,

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made by *individuals* (workers and sometimes their employers), to acquire skills necessary for different kinds of jobs and levels of pay. The unemployed are those whose abilities, skills, and productive capacities are insufficient to make it worthwhile for employers to hire them *at the prevailing market wages.*

2. *Job search.* This theory grows out of efforts to explain an observed trade-off between unemployment and rates of change in wages. The work done in this area, much of it by Charles Holt and his colleagues at the Urban Institute in Washington, emphasizes that unemployment is the outgrowth of a process of job search where workers have limited information, uncertainty, or faulty expectations about the labor market. It assumes, for example, that people who first begin looking for jobs lack basic information about the labor market, and have higher expectations about pay than can be realized. As a result, workers may reject the jobs that they first encounter and continue searching. Gradually, this procedure enables them to make a more realistic evaluation of available jobs and to adjust their expectations accordingly. Eventually the search process results in employment, or in withdrawal from the labor market; thus the emphasis is on the job hunt and its outcomes. In its extreme form, this theory would interpret all unemployment as "frictional"—i.e., largely "temporary" and always resolved in one way or another.

3. *Dual labor markets.* The third revision of the traditional views of unemployment—with which the authors of this article are strongly identified—derived from empirical study of the lower-paying labor markets. Much of this experience was gained in the civil rights activities and studies of anti-poverty programs in the 1960's, but the theories to which it leads are closely related to an earlier tradition of institutional labor economics associated with names such as John R. Commons, Selig Perlman, and John T. Dunlop.

The dual labor market approach postulates a labor market which is divided into *primary* and *secondary* sectors. The primary sector contains the better-paying, steady, and preferred jobs in the society. Those employed in this sector possess job security and advancement opportunities, established working conditions, and, whether unionized or not, employment relationships governed by a more or less explicit system of industrial jurisprudence. Work in the primary sector is associated with an *established position* in the economy. Workers here tend to identify with institutions: the company for which they work, their union, their craft, or other occupation. One who has lost a primary-sector job is unemployed in the involuntary, Keynesian sense. He has not chosen to go to look for another job, but has been

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laid off because of contractions in the economy or in his industry. He may accept less attractive work temporarily, but essentially he is waiting to regain the clearly identified position from which he has been displaced. Being "unemployed" really means being out of one's accustomed place of work.

The secondary sector, by contrast, is marked by low-paying, unstable, and dead-end employment, with frequent lay-offs and discharges. Because secondary sector jobs tend to be self-terminating, or are basically unattractive, they provide little incentive for workers to stick with them, and consequently have high voluntary turnover as well. Unemployment in the secondary sector thus is not associated with workers waiting around to regain an accustomed position, but is part of a shuttling process from one low-paying position to another.

What is important to note is that the kind of unemployment which public policy has recently focused upon (and which Feldstein has dealt with) is less the displacement of primary-sector workers than the unemployment concentrated among teenagers, women, and ethnic and racial minorities—those who tend to be employed in the secondary labor market.

Social patterns and institutional forces

The human capital and job search theories both share a common tie to traditional economic theory. They presume the existence of a fluid and competitive labor market shaped by economic motivation. Relative wages are assumed to be flexible, employers are believed willing and able to adjust their employment in response to changes in wages and productivity, and workers are assumed to make training and information investments easily in response to changes in relative wages. For both human capital and search theories, unemployment is the result of personal barriers to job access within this competitive market framework. In human capital theory, the main barrier is thought to stem from insufficient "purchases" of education and training. In search theory, lack of information is the main barrier, and the job hunt of the unemployed is interpreted as an investment process, i.e., gathering further information about the labor market. For both theories, investment by workers of time and money to secure higher future incomes is assumed to be the major way adjustment takes place in the labor market.

Within the economics profession there is a growing uneasiness with these assumptions—particularly the assumption that self-development or human investment decisions are made by individuals acting

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independently of one another, are motivated largely by economic gain, and are implemented through the market system. Yet economists do not find it easy to dismiss these assumptions, for they do derive from the utilitarian theory of human behavior on which the models of neoclassical economics rest. While few economists have argued that such assumptions characterize the entire range of human behavior, there has been almost no attempt to define the limits within which they are realistic.

One could say that the nature of educational and informational barriers could equally explain the nature of dual labor markets. But the research on which the dual labor market hypothesis is based rejects that interpretation. Put most baldly, it argues that the character of dual labor markets is best explained by institutional and sociological, not economic variables (in the neoclassical sense)—that the problem of unemployment is rooted less in individual behavior than in the character of institutions and the social patterns that derive from them.

Let us take one important instance where the dual labor market theory stands in contrast to human capital theory. This is the argument, based on our empirical observation, that much skill training is not the outgrowth of economic decisions. A considerable portion of the training necessary for the preferred jobs in the primary sector takes place not in schools or in classes, but *on the job*, and is essentially a process of "socialization" as this is understood in sociology. The acquisition of the skills to perform particular tasks—what, in other words, is normally thought of as being acquired through education or formal training—really depends on the new employee's acceptance by the established group of workers, who must show him what to do in order for learning to take place. Without such acceptance, and his conformity to their norms, the employee faces not only the psychological discouragement of being excluded from the group, but the failure to acquire the requisite skills—the "learning of the ropes" of the job.

In effect, a key factor in obtaining "primary-sector" skills and a job in the primary sector is "social acceptability," which cannot be "bought" in the usual sense. This means that jobs and upward mobility in the primary sector are sensitive to such factors as *race, sex, and shared social beliefs,* which determine social acceptability within incumbent work groups.

Institutional factors also account for observed rigidity in the labor market. Wages often seem unresponsive to changes in the supply and demand for labor, not because of trade unions or governmental

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wage relations, but because the sociological character of the training process and of the demands for equity at the work place discourage the type of competition among workers upon which competitive pay adjustments are predicated. Similarly, the *job structure* within enterprises is relatively unresponsive to changes in wages or productivity, not because employers fail to make rational manning and equipment decisions, but because the economics of job design is dominated by other variables such as the degree of product standardization and the scale of production.

Thus the dual labor market hypothesis suggests that microeconomic theory needs to be recast on the basis of a very different set of assumptions from those which underlie much of contemporary economic thought. If reductions in unemployment are to occur through changes in job structure, through on-the-job training, or through adjustments in relative wage rates, then the *institutional* forces governing these variables must be explicitly considered. In a theoretical sense, it is this conflict about the very assumptions of contemporary economics that lies at the heart of the recurrent controversies over the interpretation of unemployment.

Theory and public policy

Controversy over the theory of labor markets is of more than academic interest, for it entails differences about the policies necessary to reduce unemployment. Basically, both human capital and job search theories lead to policies directed at the supply side of the labor market and at the decisions of individual workers. These theories favor solutions that subsidize worker investments in training, that facilitate the realistic assessment of employment prospects, and that permit market forces to express (free of "distortions") the economic incentives that are thought to govern worker investments in training, information, and job search. These theories do not inquire into the social factors affecting worker choice, nor do they concern themselves with understanding the determinants of training opportunities that are presumed to control such investments.

The policies suggested by Martin Feldstein in his article in *The Public Interest* illustrate the job search-human capital approach to reducing unemployment. The most novel of these are proposed changes in the application of minimum wage laws to youth and in the unemployment insurance system. The minimum wage, he argues, prevents youths from "purchasing" training from employers by forbidding wage bargains that would allow youth to get training on the

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job, and some way must be found to get around this obstacle. Similarly, Feldstein argues that the large cushion of unemployment insurance both encourages an "overinvestment" in job search on the part of workers and reduces incentives for their employers to eliminate cyclical and seasonal fluctuations in jobs. He would correct these "perverse effects" by imposing penalties upon individuals, through reduced compensation, as the frequency and duration of their unemployment increased.

Such proposals are open to question even within the theoretical framework in which they were conceived. The suspension of minimum wages for teenagers might mean simply the supplanting of adult women and minorities in the secondary-sector employment opportunities which these groups now share in common; the price of increased employment for youth, therefore, might be higher unemployment rates for women and minorities. The proposed changes in the unemployment system would penalize all the unemployed—those without control of their employment patterns as well as those with a substantial range of choice.

The dual labor market approach, however, questions these policy proposals on broader analytical grounds. The critique centers on two main issues: the origins of short-term unemployment in the secondary sector, and the importance of the structure of employment and training opportunities as a cause of unemployment.

The first point can be illustrated by the labor market behavior of high-unemployment groups, such as youth and ethnic minorities. It is often argued that young workers are interested only in short-term employment which will interfere minimally with school or leisure-time activities, yet will yield incomes capable of supporting these activities. Thus jobs in the secondary sector, with their tolerance of lateness, absenteeism, and high turnover, are particularly suited to such workers, and it is this combination of casual work attachment and irregular jobs that seems to explain a great deal about youth unemployment.

Yet virtually all young people in our society eventually decide to marry and settle down into permanent employment. The timing of such decisions and the shift to a stable life style is in large part a function of the availability of stable jobs. In periods of full employment, stable job attachment occurs earlier in working life as employers in the primary sector reach into the youth labor pool. And recent studies of youth, especially low-income youth, suggest that if more such primary-sector jobs were available, more youths would settle down, and settle down earlier.

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There also seem to be important threshold effects. Most youths, particularly those from lower-class and working-class backgrounds, during their adolescence belong to relatively tight peer groups. Under favorable labor market circumstances, the members of the group marry and obtain permanent jobs at about the same time. The fact that the group makes the move together supports each individual in the transition to stable life styles and work routines. When the labor market is loose, however, and most people cannot find stable jobs, the group continues its adolescent pattern of behavior. The few individuals who do find steady jobs are forced either to abandon their friends, or to face a continual choice between the demands of their new life style and those of their old associates. For many this conflict is resolved by abandoning stable employment.

The conflict is particularly acute for many minority youths, who have difficulty in forming the kinds of social bonds at work which might substitute for the adolescent bonds on the street. That problem, combined with the difficulty of finding a sufficient number of stable jobs to permit the street group as a whole to shift its routine, undoubtedly contributes to the relatively high rates of failure in employment among even those few youths who manage to find stable shelters in the labor market.

Processes of this kind make it difficult to evaluate youth unemployment by a simple economic measure. They also suggest that the historical spread between teenage and adult unemployment rates is not immutable, but is rooted in the sociological character of group life.

Like the employment difficulties of young people, those of ethnic and racial minorities are directly related to the socioeconomic structure. As far back as these markets can be traced, the low-paying job market in general, and that for minorities in particular, has to be understood in terms of migration. Historically there have always been secondary-sector jobs ("dirty work") which the native labor force has refused to accept. Thus migrants from less affluent rural areas, or immigrants from foreign countries, have been imported to fill them. These migrants usually conceive of their stay as temporary. Many immigrants intend to, and a great many actually do, return home within months. Or, if they stay, they accept these jobs as the "price" of change and hope that their children will do better. And quite often, such jobs, unstable and dead-end though they may be, are still preferable to the conditions in the place which the migrant has left.

Out of the migration stream, however, there eventually grows a

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"second generation" raised in the urban areas. This second generation shares the perspective of the native population and no longer accepts the kinds of jobs which originally attracted its parents. But unlike the earlier white migrant groups that were assimilated into the good, primary-sector jobs, today's "new" immigrants—largely black or Spanish-speaking—face continuing discrimination that largely confines them to the secondary sector.

The current black labor force is the offspring of a migratory stream from the rural agricultural South, initiated by the World War II and postwar boom. But the old migration is exhausted, and the changing unemployment and labor force participation rates among blacks in urban areas are a product of a gradual transition from "first"-generation migrants, to a new generation that is unable to move up to the kinds of jobs in the primary sector to which it aspires. The high unemployment rates in the minority labor force are less a result of unwillingness to work than of an inability to obtain jobs in the primary sector.

The distribution of jobs

If this diagnosis of youth and minority unemployment is correct, then what is needed are two kinds of responses: 1) Public policies which end the discrimination that has closed primary-sector jobs to various groups of workers, and 2) policies which shift the distribution of jobs away from the secondary and into the primary sector.

The idea of discrimination is not neglected today in orthodox economic theory. But the orthodox view, as expressed in the work of Gary Becker, implies that discrimination operates in the market and is restrained by competitive forces. It can be eliminated by strengthening competition and by raising the cost of discriminatory behavior. This kind of analysis thus calls for "economic," not "political" action. But the dual labor market hypothesis, by viewing hiring, training, and promotion as social processes, suggests that race, sex, and ethnicity are central factors in determining who gains access to the primary sector, and suggests that the necessary corrective action lies in instruments like the Federal Contract Compliance program and Title VII of the Civil Rights Act of 1964. The political opposition to compliance programs such as affirmative action really seeks primarily to preserve the existing social character of job allocations, rather than to protect the efficiency of the market.

The means of shifting the distribution of jobs from the secondary to the primary sector are more difficult to develop. Market dualism is

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the result of a complex array of decisions that govern recruitment, hiring, training, subcontracting, technological change, and capital investment. These decisions are made by corporations, trade unions, and informal work groups and, when looked at individually, they seem to be dominated by unique circumstances—local labor market conditions, particular personalities and social attitudes, political considerations, and the varied objectives of trade unions. The complexity of these relationships between institutional policies and labor market structures almost defies rational analysis and has been largely ignored by economists in the United States, leaving the economic literature barren of clues to the specific origins of dualism.

But in Japan and Italy, two industrialized countries where dualism is a widespread theme in economic analysis, the labor market structure is seen as closely related both to differences in employment practices between large and small business enterprises and to the relative strength of trade unions. In these countries, the initial emergence of dualism can be traced to rigidities in labor utilization introduced by large firms and to strong work-place union organizations. Because large corporations can smooth out fluctuations in production through marketing efforts, inventory adjustments, and subcontracting, their employment tends to be stable relative to smaller enterprises. Stability of employment and large size also favor union organization at the work-place, and union activity appears to foster further improvements in the employment security and economic advancement associated with the primary sector. The persistence of labor market duality as these countries industrialize can be traced, in part, to the failure of unionization to penetrate the secondary sector and to the tendency of government to subsidize indirectly the secondary sector through the exemption (*de facto* or *de jure*) of small businesses from various costs of social welfare legislation.

Some obvious parallels can be found in the United States. Large enterprises dominate the primary sector and, with some notable exceptions such as the garment industry, union activity has historically been concentrated in the primary sector.[1] Until quite recently, the smallest firms have received exemptions from the coverage of social welfare legislation, and in some states and localities government assistance has contributed to keeping secondary employment alive.

These limited examples of the sources of market duality imply that reform of the structure of labor markets must be undertaken in

[1] Despite serious competitive obstacles to improving employment conditions in the secondary sector, where unionization has taken hold in industries such as apparel, hospitals, longshoring, and building services, it has introduced benefits that resemble those in the primary sector.

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a wider policy context than is ordinarily considered. It must include policies of governing industrial structure, trade unions and collective bargaining, patterns of exemption from social welfare legislation, and the competitive position of small business, as well as manpower training and employment. Such widespread intervention, however, is outside the scope of labor market policy as it has traditionally been conceived and certainly exceeds our present capacity to manage labor market processes through public policy.

Transforming labor markets

While major reorganization of the dual market structure through microeconomic policies seems beyond the reach of government action, there do remain important and largely untapped opportunities for inducing structural change through aggregate employment policy. To illustrate this point, consider the effect of expanding the demand for labor uniformly throughout the economy. In principle, adding workers to the primary sector would require employers to reduce hiring standards, to recruit from among previously rejected or excluded sources of labor, and to enlarge their training and upgrading activities—in short, the secondary sector would provide the major supply of new hires in the primary sector. The logic of this scenario would indicate that a policy of full employment, if pursued long enough and far enough, would either eliminate the secondary sector or, through competition for scarce labor, cause secondary sector jobs to conform more closely to those of the primary sector.

Unfortuately, however, full employment policy is too crude an instrument to insure that a tightening of the labor market would expand the primary sector significantly. In fact, employers and unions in the primary sector often seem to favor *temporary* solutions to tight job markets, solutions that do not provide the newly hired with the full career benefits of primary employment. Thus one finds companies in the primary sector relying on subcontracting and the use of temporary workers to avoid the costs and risks associated with giving primary market status to workers from the secondary sector.

As a result, the pressures for structural change that should accompany full employment often leave the dual labor market intact during periods of both high and low unemployment. Much of this preference for temporary solutions can be traced to the historical experience with "stop-and-go" growth. Recessions reduce labor demand in the primary sector, but they do not provide corresponding relief in the costs of commitment to career employment. These costs, com-

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bined with aversion to uncertainty, and with race and sex issues that inevitably accompany the expansion of the primary sector, often lead to the avoidance of structural adjustments that might be irreversible.

In general, obligations of steady employment are accepted only when there is an expectation of a stable level of demand. In the factory, these are the jobs associated with relatively permanent production levels. In the craft union, this is the level that yields relatively continuous employment for permanent members. The unstable employment residual is left to the secondary sector. Any use of aggregate policy as an instrument of structural change, therefore, means that one has to establish a credible commitment to stable and continuous full employment.[2]

On the basis of these contrasting theories of the labor market, the efforts to transform labor markets can go in either of two directions. The human capital and search theories would seek either to make the labor market more flexible and competitive by reducing or offsetting the importance of market "distortions" like minimum wages and "transfer payments" that reduce work incentives or, when necessary, to subsidize the employment of those with labor market difficulties.

The alternative, suggested by the dual labor market analysis, is to focus on the importance of market institutions and the behavior of work force groups in the operation of the labor market. The search for policy instruments to redress labor market duality involves improved anti-discrimination activities, the reorganization of the secondary sector to stabilize and rationalize the utilization of manpower, and the exploration of institutional solutions to encourage the growth of primary-like employment in the secondary sector. Above all, the dualist approach stresses the primary role of full employment in encouraging the structural transformations required to reduce inequalities in employment and training opportunities. Full employment is necessary on the demand side to expand the primary labor market and to facilitate the absorption of hard-to-employ groups. And on the supply side of the labor market, this increase in primary opportunities should favorably affect the labor market commitment of many of the young and the disadvantaged.

[2] For example, when the central authorities are committed to achieving a *sustained* employment rate of 3.5 per cent, an economic expansion leading to a four per cent unemployment rate will encourage employers to increase their volume of primary jobs. When the target is five per cent, however, a similar rate of expansion and level of unemployment will be perceived as a temporary aberration of policy, and the expansion in jobs is more likely to occur in the secondary sector.

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OMB and the Presidency—the problem of "neutral competence"

HUGH HECLO

IN 1970 the Bureau of the Budget (BOB) officially died and the Office of Management and Budget (OMB) was born. Subsequent years have not been kind to the organization. Renaming the agency was supposed to signal a new era in which the traditional job of budget-making would be augmented by a new emphasis on government management, but the management side of OMB has been in disarray throughout most of the organization's short life. An agency which traditionally valued its heritage of anonymity and quiet diplomacy inside government has found itself slugging it out in nasty public fights on issues such as impoundment. From now on, every OMB director and deputy director will have to be confirmed by the Senate—a blow to the special Presidential status which the old Bureau of the Budget enjoyed. Watergate has taken its toll on morale, and as if that weren't enough, Presidential Ford's transition advisers declared last summer that the power of OMB had increased, was increasing, and ought to be diminished. All in all, it has been a tough childhood for the young OMB.

But the agency's rocky transition reflects something more than the travails of reorganization and the acrimony of a near-impeachment. Watergate was a reminder that we must judge public organizations

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not only by what they do, but by how they do it—and the reminder was particularly timely after some years during which concern for outputs had almost totally eclipsed concern over the standards governing the production of those outputs. A profusion of program analysts, policy studies, management languages, and techniques attested to a widespread opinion that institutions were to be judged as more or less effective machines for producing desired policy results: "By their fruits ye shall know them" was the going criterion. But this is no longer the case. If the so-called post-Watergate morality means anything, it is that the imbalance between output concerns and process concerns is being rectified. Old-fashioned sentiments such as propriety, moderation, and decency are once again heard in the land. A huge, unpopular war in Southeast Asia failed to generate a serious drive for Presidential impeachment; yet several petty burglaries and their coverup—actions meager in output terms, though raising immense questions about basic standards of conduct—made impeachment a realistic prospect.

The idea of neutral competence

So the politics of righteousness is getting a good running in American public affairs, and it is appropriate that it should. But there are important performance standards other than those based on moral rectitude and the absence of venality. One of the most crucial of these standards inside government—and one of the most neglected by the moralizing fervor outside government—is "neutral competence."

In the Anglo-American democracies, neutral competence is a relatively recent growth and corresponds roughly with the appearance of a higher civil service about a century ago. It envisions a continuous, uncommitted facility at the disposal of, and for the support of, political leadership. It is not a prescription for sainthood. Neutrality does not mean the possession of a direct-dial line to some overarching, non-partisan sense of the public interest. Rather it consists of giving one's cooperation and best independent judgment of the issues to partisan bosses—and of being sufficiently uncommitted to be able to do so for a succession of partisan leaders. The independence entailed in neutral competence does not exist for its own sake; it exists precisely in order to serve the aims of elected partisan leadership. Nor is neutral competence merely the capacity to deliver good staff work to a political superior, for a major part of this competence lies in its ability to gain compliance from lower-level officials. The competence

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in question entails not just following orders but having the practical knowledge of government and the broker's skills of the governmental marketplace that makes one's advice worthy of attention. Thus neutral competence is a strange amalgam of loyalty that argues back, partisanship that shifts with the changing partisans, independence that depends on others. Its motto is "Speak out, shut up, carry up, carry out."

As a performance standard, neutral competence is valuable in a number of ways. For one thing, it smooths communication and thus improves the capacity of elected leadership to get what it wants out of the government machine. Officials with neutral competence can help bring along the more committed specialists elsewhere who are easily antagonized by outsiders ignorant of their ways. When fights become necessary, aid from those with neutral competence can help political leaders chastise others in a way that encourages them to go along rather than fight further. Equally important, neutral competence accumulates informal sources of information within the bureaucracy, sources which can be the key to governing the sprawling executive machinery and which are otherwise unavailable to transient political appointees. Neutral competence, therefore, helps to avoid gratuitous conflicts that would use up resources and relations needed for more important issues, prejudice cooperation the next time around, and risk the ultimate disaster—a complete close-down of information from the offended party.

Another virtue of neutral competence is that it has a vested interest in continuity. Agencies and officials with this attribute have a highly developed institutional memory and a special concern that initiatives be capable of being sustained for the period ahead. They temper boldness with the recognition that they will have to live with the consequences of misplaced boldness. They worry about administrative feasibility because they do not want to have to deal later with problems of administrative breakdown.

Finally, neutral competence contributes a quality of impartiality to be set against other, more sectional appeals in government. Its viewpoint is no more pure or unbiased than anyone else's, but the axes it has to grind are broader than most. Its analysis is less concerned with the short-term political ramifications of who believes what how strongly, and more concerned with the substance of the policy issues themselves. Moreover, because it has an interest in continuity, it is likely to be more concerned with the brokerage process in general than with any particular issue or case. It cares about good form and the use of discretionary authority in a more even-

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handed way than might be preferred by individual contending parties. Thus its advice and analysis provide a useful counterweight to those more interested in a given subject matter or immediate advantage and less interested in brokerage, continuity, and staying around to pick up the pieces.

If all of this sounds too good to be true, it is. Even when achieved, each blessing of neutral competence imposes its own curse. Communication and bringing people along can promote delays, timidity, and debilitating compromise. Concern with continuity not only can have all these vices but can frustrate any mandate for fundamental change. Officials raised by the norm of impartiality and speaking their mind can generate more trouble, more unanswerable questions, more reasons for not doing something. No one would want a government composed only of neutral competents. Yet their services are invaluable in the play of power and advice. They survive by keeping the government mechanism well-oiled and in working order.

And the existence of this working order is as important as rectitude in making governance legitimate. Rectitude helps make the whole government enterprise believable to outsiders by virtue of the correctness of its leaders' behavior. Neutral competence helps legitimate government among insiders by giving a voice to those with a vested interest in the continuing good faith and credit of the government's own internal operations.

From BOB to OMB

Neutral competence has always been a somewhat fragile growth in American government, and the old (post-1939) Bureau of the Budget was one of the few places where it was nourished and took root. Talk with veterans of that institution and they harken back to a golden age when "the old Bureau really was something special." The Bureau was a place where the "generalist ethic was admired and defended," a place where "you were both a representative for the President's particular view and the top objective resource for the continuous institution of the Presidency."

Of course, the pristine golden age never existed except in retrospect. Not all directors consulted as virtual equals with young examiners, and the Eisenhower years did not inspire outstanding feats of innovative policy analysis. An unpublished poll of staff attitudes in 1959 confirmed complaints about the immobility of personnel and inadequate promotion opportunities. But the nostalgic memories do contain an important core of truth. At the end of the Eisenhower

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years, the surveys did find that the vast majority of BOB staff felt they were kept well informed by superiors, that they had adequate opportunity to defend their recommendations before decisions were made, that they would recommend the Bureau to friends as a place to work, that they expected to remain with the organization indefinitely, and that they were "proud" when telling people they worked for the Bureau.

Today's Office of Management and Budget is by no means falling apart, nor is it a resting place for political hacks. The changes that have occurred are more subtle shifts in the nature of the organization, its premises, and its climate of activity. Taken together, however, these changing norms and relationships call into question the possibility of preserving the institution as a source of impartial continuity for the Presidency. There is a real and growing danger that as demands on government performance are growing, and as the need for continuity, executive branch coordination, and independent analysis is increasing, the standards of neutral competence are being eroded.

Numbers tell a small part of the story of these changes at the level of the career staff. In the last 20 years, the number of professional staff at BOB/OMB has grown by about one half, to 430; but the top layer of this civil service staff (supergrades GS 16-18) has grown over five times, to 75 persons. While this growth rate is roughly in line with the changes in the executive branch as a whole, it has made coordination and communication more difficult in an agency which has always prided itself on letting each of its many hands know what the others are doing.

At the same time, the turnover of this permanent staff is up. Compared to a rate in the 'teens or lower in the 1960's, over one quarter of the professional full-time staff (GS 9 and above) separated from the agency for one reason or another during Fiscal Year 1973. Those who remained were relatively inexperienced in government compared with their counterparts of former years. In 1960, of the heads of major offices (budget review, legislative reference, and management) and examining divisions, nearly three quarters had six or more years' experience in BOB, and nearly half had been in their current posts for six or more years. In 1974, however, of the same group, only a quarter had six or more years' experience in BOB/OMB, (while nearly two thirds had one year's experience or less), and only 13 per cent had been in their current posts for six or more years. A similar trend took place among key subordinates (i.e., staff down to the budget examiner level), so that by 1974 almost two

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thirds had been in their current jobs for one year or less. Experience elsewhere in the executive branch among top OMB staff likewise declined dramatically.

Such figures, of course, do not tell the whole story; periodic reorganizations in the agency have naturally created new posts, new titles, and corresponding declines in tenure in any single job. But reorganization can itself be a symbol of disorganization. After trying vainly to provide a colleague's office number, one management expert who advises other departments on rational organization despaired: "Things change so fast around here I've given up relabeling my [OMB] organization chart."

The rise of the PADs

One reason for the decreasing continuity among major office heads has been the establishment in OMB of a new category of politically appointed staff. In 1960 the Bureau of the Budget had, basically, five political officers—director, deputy director (himself a former BOB civil servant), and three assistant directors. These assistant directors served largely as staff assistants to the director, assembling *ad hoc* teams of civil servants for whatever particular projects came their way. The 1970 OMB reorganization has added four program associate directors as well as a new assistant director to head the management division. PADs, as the program associate directors have become known, are political appointees. Unlike the old assistant directors working on *ad hoc* assignments, PADs head the examining divisions, exercise continuous operating responsibility for given areas, and have permanent staffs directly under them. The change is important because the examining divisions in BOB and OMB have always been a key locus of enduring power at the government center; they control a process—budget-making—that is of vital interest to almost all other agencies, and they thereby possess sanctions and access to information which few other actors can match. Whereas career division chiefs headed these examining groups in BOB, now it is a layer of political line officers who are in charge, with the civil service division chiefs serving as their deputies.

In essence, a new layer of political line control has been introduced, and to it has gravitated not only leadership of the powerful examining divisions, but other responsibilities as well. Legislative proposals by the departments, for instance, have to be cleared through BOB/OMB, and throughout the postwar period this has been handled through the Legislative Reference Section, a unit

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co-equal with the examining divisions and headed by a succession of powerful civil servants. Now this section is much less important, and the academic literature on "central legislative clearance" is seriously out of date. No longer does the Office of Legislative Reference deal directly with the White House staff or the departments; now it usually deals through the PADs. Having less information to trade, Legislative Reference gets called to fewer meetings and has more trouble getting in on things. In effect, the institutional role and government-wide perspective in legislative clearance has been ceded to the PADs and their particular policy bailiwicks.

The Ford transition team rightly noted that this new system of sectional rather than central clearance had led to more rigidity in the oversight of department legislation. But they wrongly concluded that this rigidity was an indication of too much power in OMB in general. To say this is to miss the point; ironically, the sectional clearance system has in one way *decreased* OMB's power, by decreasing the agency's ability to coordinate government-wide legislative activities. The question is not one of OMB's power in absolute terms but rather of how this power is arranged, and how favorable that arrangement is to the exercise of a neutrally competent perspective across the range of executive branch activity.

In the same way, a new sort of political control has come to be exercised over OMB's Office of Budget Review, an office which throughout most of the postwar period was the focal point for fiscal policy recommendations and for pulling the budget together each year. Now Budget Review is no longer in this direct line of operations. It is more isolated from the examining divisions and relevant departmental contacts, more concerned with advising on the technical details of budget-making.

Thus on budget, programs, and legislation (and on the expanded management side as well), it has been largely the PADs and through them OMB who carry the ball for the administration.

OMB and the Presidency

Just as important as these changes within the organization itself have been the changes in the agency's relationship with its chief client, the President. A number of postwar BOB directors saw more of the President than their recent counterparts can claim, but these earlier directors typically had access in their capacity as heads of a Presidential staff agency. By contrast, the last three Nixon directors —George Schultz, Casper Weinberger, and Roy Ash—showed a

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stronger tendency to position themselves as personal advisors to the President, with a new office in the West Wing of the White House to symbolize the fact. The result was to identify OMB more as a member of the President's own political family and less as a broker supplying an independent analytic service to every President. A milestone of sorts was reached in September 1974 when the director of the supposedly economy-minded OMB testified to Congress in favor of an $850,000 transition expense account for the departed President.

Changes in the budget-making process also contributed to a much closer identification between the organization and the particular inhabitant of the Oval Office. Traditionally, the final step in this process was the President's personal arbitration between the BOB director and the head of a spending agency appealing its budget mark. After 1969, it was made clear that President Nixon definitely did not favor such personal confrontations in his presence. Procedural guidelines circulated to the agencies made no reference to even the possibility of appealing the OMB director's final budget determination, which was now to be returned to the spending agency with the status of a Presidential decision. In practice, the Nixon Administration, like its predecessors, handled complaints from disgruntled department heads through an informal committee that sought to hammer out an agreed-upon White House view: The difference is that in earlier years this "White House view" had to contend against the agency head's personal appeal to the President. Developments in the Nixon years left much less separation between the OMB's budget judgments and the President's personal position.

It would be unfair and wrongheaded to imagine that these changes have constituted anything like a full-scale raid by political partisans on OMB. For one thing, the PADs appointed to date have not had any special interest or background in party politics. For another, the interposition of this new layer of political appointees was a response to what some in the White House and BOB itself perceived as increasingly clear institutional deficiencies and coordination needs. As early as 1959, a self-evaluation by senior civil servants decided by only a narrow vote against recommending the use of political appointees in line guidance over the various offices and divisions. By 1967 more painful experience had accumulated: OMB staff was heavily involved in Presidential task forces to create major new policies; the new Planning, Programming, Budgeting System was causing headaches for the director and everyone else; Great Society programs were proliferating and creating who-knew-what demands on administrative machinery and future economic resources. To a 1967

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BOB study group composed of the institution's political and career leadership, it was clear that things needed to be tightened up. This led, among other changes, to the creation of one politically appointed assistant director with line responsibility to ride herd over the sprawling human resources area of government. For various reasons, this first move turned out to have little impact. But the BOB's 1967 self-evaluation did highlight a strongly felt need to coalesce political judgment without having to rely upon a hectic director's office and the *ad hoc* intrusions of the White House staff.

Quite apart from any dissatisfaction that BOB staffers themselves felt with the old situation, there were good policy reasons for increasing political control over the agency and agency identification with the President. Increasingly interventionist policies—with civil servants dealing in questions of birth control, consumerism, medical care, environment, energy, transportation, civil rights, and so on—provide a legitimate justification for a much greater political interest in civil service decisions. Moreover, the Nixon Administration, intent on reversing this interventionist trend but frustrated by an opposition Congress, began emphasizing administrative actions that could be taken independently by the executive branch. In the eyes of the White House, administration policy faced not only an opposition Congress but also an opposition executive, a collection of agencies and departments with a vested interest in the ways of the past. Dependence on the normal run of departmental political appointees was unreliable, given their tendency to "go native." Attempts were made at direct intervention by the White House staff but they proved cumbersome, unsustained, and vulnerable to outmaneuvering due to a lack of coordination among the staff itself.

This distrust of many operating agencies was paralleled by the Nixon Administration's growing awareness that it could rely on OMB as its chosen agent in the executive branch. Since responsiveness to the President is the one quality which BOB/OMB has always needed in order to survive, a beleaguered White House often found itself pushing against an open door. Lacking any outside clientele in Congress or interest groups, OMB can resist only through inactivity; its choice is to be of use to the President of the day or to atrophy. OMB preferred to be of use.

A shifting role

Although the internal shakeup at OMB aimed at making it more responsive to the White House, it was not intended to allow the or-

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ganization to provide policy leadership in the Executive Office of the President. For this function, the Domestic Council was created. As the slogan of the time had it, the Domestic Council would concern itself with what to do, the OMB with how to do it and how well it was being done. The Domestic Council would be the antipode of everything the traditional Bureau of the Budget had been. Its virtue would be not institutional routine but policy innovation, not continuity but personnel turnover, not professional detachment but loyalty to "the man."

It was an ill-starred division of tasks. Thinking about what to do turned out to be difficult without having the people around who could tell you how to do it. Since they had a great deal of the necessary experience and expertise, OMB staff were increasingly drafted into Domestic Council operations—and even directed by Council leaders not to inform OMB colleagues of their work (a secrecy which, predictably enough, was rarely pledged and even more rarely maintained). With the departure of John Ehrlichman as its head, the short-lived Domestic Council experiment faded, as did White House intervention in departmental line operations; and today it is no exaggeration to say that apart from a few specific issues and political brushfires, the Council has developed as a weak sister of OMB. Thus not only by design but also by inadvertence, the political importance of OMB grew along with the demise of the other principal actors.

From the convulsions of the last few years, then, OMB has emerged stronger than ever. The question is: a strong what? Has OMB balanced the demands placed on it for policy advocacy outside and for quiet diplomacy within government? Has it succeeded in being a close member of the President's political family yet maintaining itself as a detached staff for the ongoing Presidency? In short, what has happened to the idea of neutral competence as a result of all these changes?

Well, one thing that has happened is that there has been a fundamental shift in OMB's role away from wholesaling advice to the Presidency and towards retailing policy to outsiders. The Bureau of the Budget had carefully shunned public visibility and served as an administration spokesman only infrequently and in specialized areas. Similarly, most public comment on BOB was second-hand, via the well-worn ploy by which spending departments found it convenient to blame BOB for frustrating the demands of the departments' clients. Since 1971, however, the director and his associates have sought more prominence, at least in part because of adverse

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Congressional reactions to Presidential impoundment. More OMB officials can now be found going to Capitol Hill to negotiate with Congressmen. Orders have come down to OMB career staff to do more liaison work with Congressional staff and provide more intelligence on what they learn. There is more OMB lobbying with agencies and the press in order to sell administration policy.

However well-intentioned some of these efforts have been, the fact remains that the easiest way for an organization to become politicized and lose neutral competence is to become visibly identified with a given political bargain or piece of public advocacy. As one experienced official put it:

> The organization is becoming more vulnerable the more it gets associated with particular public positions. By doing things for this and not that group, selling this and not that deal, we become more politically identified with one administration.

Another OMB official observed:

> One of the hardest things to do is to disassociate yourself from a stance taken before large audiences and it's becoming harder and harder to avoid doing that. Frankly it tends to make this agency an extension of the party in power. . . . I guess we've always been that, but we're also supposed to be more than that. It's hard to achieve in practice, but there's something of value in the idea of serving the Presidency, as well as each particular President.

As OMB's visibility has grown, it is understandable if others fail to make the distinction between OMB's governmental authority as an institution of the Presidency and its political power as the President's personal staff. Spending agencies find it more tempting to justify themselves to their clients by complaining not just about the normal BOB/OMB penny-pinching but about its arbitrary power as a political partisan of a given administration. Decreasing the rate of growth in scientific research spending, for example, becomes less a question of value for money and more a question of one particular political administration's anti-science attitude. Those seeking to maintain independence from a President's personal difficulties naturally think of holding OMB at arm's length as well. When Elliot Richardson became Attorney General, OMB staff were shaken to hear that he had instructed his subordinates to have no dealings with White House or OMB staff; it took later clarification of these orders to reestablish the distinction and proscribe only White House personnel.

Even more threatening than problems with outsiders is the fact that members of the Executive Office of the President themselves

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may become less able to distinguish service to the President from service to the Presidency. The aim of lodging the director in the West Wing, of creating a powerful layer of line political officers, and of projecting a visible OMB profile of administration advocacy has been to increase responsiveness to the President's policy. But what happens when the authoritative Presidential aide, laying down the political overview which is to guide OMB budget-makers, instructs that only capital projects in certain politically rewarding districts are to be approved? Such questions have indeed come forth, and the answer to the question "What happens?" is that in this case nothing happened, besides a collective shiver of disgust throughout all levels of OMB. But there is no escaping the final implication. If OMB is to be the administration's loyal advocate and lead agency, then there are likely to be people in the White House who expect it to follow with a minimum of questioning.

Dilemmas of the civil servant

The change from BOB to OMB expressed a legitimate concern for the political responsibility and responsiveness of the people making important decisions. No one should be surprised by the visibility which goes with this avowed political responsibility, nor is it necessarily a bad thing if the organization itself is held more publicly accountable for what it does. But there are also the legitimate claims of neutral competence in government, and if the organization moves toward increased external political identification, the need for understanding and protecting its internal capacities for impartial continuity becomes even greater, particularly in the relations between transient political appointees and more permanent career staff. Here, too, the traditional performance standards have come under strain and may be even more problematic in the future. Political appointees have too often lacked the experience, time, or inclination to care that abstract boundaries for civil service roles be maintained or to be concerned that, once lost, a tradition of neutral competence can be almost impossible to re-establish.

Experienced civil servants worry both when they are too far from political power and when they are too near, when they are suspected by their political bosses and when they are treated so familiarly that the political/civil service distinction disappears. Many senior officials who were once held at arm's length now find that they are being drawn into a closer political embrace at OMB. The PAD is supposed to be the political person, but in the nature of things he cannot go

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to all the meetings or engage in all the negotiations that come his way. Civil service staff often substitute, partly out of physical necessity and partly as a result of prodding by some political appointees. And as the officials have become more involved politically, they have found it more difficult to maintain that neutral identity which would allow them to be of service to succeeding administrations.

Most career officials are trying hard to avoid political identification, though a few of the less experienced or more politically ambitious among them are not inclined to send for instructions to cover themselves. One senior official contrasted the current situation with the BOB he had joined in the late 1950's:

> Of course, you've always had to bargain, but now I run around town and people assume I am acting in [the PAD's] stead. But in fact I'm a career man and I'm not being paid to become an advocate. I don't have the perquisites, the power, or the status to go with that job. I try and do an honest job of analysis, and the danger is you'll lose your standing as objective. But I'm getting stuck and having to take more and more public positions.

A much younger man at the examiner level commented on the perils of "getting stuck":

> I got sucked in. I guess you could say I was politicized. You get wrapped up in the crisis and pressures of the administration's mission and don't ask the questions or draw the distinctions you might have done in calmer times. . . . The White House wanted to make decisions and you were supposed to give them the reasons.

In some cases, such as the heavy-handed use of impoundment or the dismantling of OEO, for example, independent OMB advice was unduly compromised by close and ingratiating ties between White House and OMB staff.

Increased pressure to deal with Congress has proven an additional source of difficulty. As one middle-aged examiner put it:

> We like to think of ourselves as a bureaucracy existing over time. Recently word has come down from the head office that we're supposed to find out more about what is going on up on the Hill. I guess we're supposed to be talking about the status of legislation and lobbying for certain things. That should be the political guys' job. When those people can't do it, they ask us to.

Some who do try to keep on the proper side of the political line are then criticized for providing poor service. One supergrade official commented:

> When I am told to go to meetings with Congressional staff, I keep my damn mouth shut. A question of fact I supply, but if they ask for opinion or judgment I look to the guy from the White House or send

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> back for instructions. . . . Then when he's sent me with minimal instructions, [a PAD] has the gall to ask why I can't carry the ball.

Obviously, a good civil servant should be expected to look out for himself, to know his proper role and keep to it. But circumstances can help or hinder his efforts, and the trend at OMB has been to make the protection of neutral competence much more difficult. When both the agency and careerists are unshielded from politicization, then communication, impartiality, and continuity all suffer.

The costs of politicization

Communication has suffered at OMB first in the passage of information downward. As the civil service is used in more political ways, it becomes, paradoxically, more difficult to transmit a sense of political direction down from the top. More people become involved in the act of giving signals, and political appointees are likely to become slack in their own responsibility to feed information back to officials below. For those who do not become actively politicized, the remoteness of top political leadership makes it difficult to get the vital contextual knowledge that would help them do their jobs. As one high official said:

> I don't want to run my hands over every little scar from the last battle but we do need to know the general way something was decided. I will be dealing in the same area again, and knowing that something was decided on its merits gives an indication of what policy is meant to be. If it was decided on tactical, or personal, or party grounds, that's OK, but then I know that the next time it's all up for grabs again. Presently, I'm left in the dark.

At the same time, communication upwards also deteriorates as staff become less sure of what actually happens to their analyses and recommendations. "We found," said one examiner, "that our pols had struck a bargain but here we were still preparing the veto message." An already cautious mental set grows more so. "Why bother telling them; let them find out for themselves," was the way one excluded official put it.

Impartial brokerage, as well as communication, becomes more difficult when neutral competence is compromised by personal staff loyalty to particular political appointees. According to one participant:

> The combativeness of associate directors tends to be mirrored by their staffs. When [a PAD] got uptight with [a cabinet officer] it was reflected in unnecessary argument one or two layers down in each organization's staff. Still today, they will send us nothing on legislation.

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Overidentification with the political leadership can be particularly serious for budget examiners. To operate successfully they must enjoy the reputation of an honest intermediary who balances loyalty to his political superiors with a fair presentation of the agency's case and his own analysis. "It will do me no good," said one, "to become known as some political appointee's fair-haired boy."

Less cooperation and more compartmentalization have also appeared because of the separate, politically-headed staffs. "In effect," said one experience observer, "PADs have a staff which tends to be their staff. Everyone is much more conscious of protecting his own turf, with less flowing from side to side and from one piece of real estate to another." Of course, internal bickering is nothing new to OMB or its predecessor; but the internal divisions are now more clearly and politically staked out. Substantive issues take on an additional political dimension. What is more, senior career staff are less likely to be in positions of institutional leadership where they can mediate internal difficulties. In the past it was the top civil service staff immediately under the director who helped soothe internal problems—encouraging impatient subordinates to ride out current troubles, trying to take the heat and calm political appointees, shielding career people below from political intervention, and generally attempting to keep the place working together. Today, few senior careerists are in positions to oversee the activity of the institution as a whole. Tomorrow, there are liable to be still fewer.

As communication and impartiality decline, so too does continuity. "Formerly," said one recent promotee, "there was a certain institutional quality to your promotion when there was only a career division chief. Now I was appointed by a PAD, and it's not so clear." And what follows from this identification is the worry of being seen by others as tied to a particular political leadership. As one supergrade official summed up the feeling:

> You have to worry about maintaining your career status. Here I am having been hand-picked by a Republican PAD to come over and do a job for him. It's not unthinkable that other people will say, "Hey, this guy's a Republican civil servant."

When that is said often enough about civil servants, the principle of neutral competence can be safely pronounced dead and buried.

The future of OMB

The threat to neutral competence was not initiated by the Nixon Administration. Both the Eisenhower and the Kennedy Administra-

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tions came to Washington vowing vengeance against a Bureau of the Budget suspected of disloyalty to the new President; in both cases the new BOB directors went to the barricades to protect the agency, and other political appointees soon came to appreciate the asset they had acquired. Nor were senior White House staff in the Johnson Administration particularly interested in the niceties of neutral competence. Events of more recent years, though, raise more serious questions than ever before about the norms of impartial continuity. The same threat can be found in other agencies, but BOB/OMB is the one place at the government center where impartial continuity has traditionally been cherished and had a chance to grow. Its disappearance there would be a change of special consequence. OMB has not yet been thoroughly politicized, but enough inroads have been made for there to be cause for concern and for serious rethinking about the direction in which developments are taking us.

The use made of OMB depends heavily on what the President wants to do. Eisenhower relegated BOB to a secondary role in making policy. As he was not interested in initiating very much on his own, he preferred to use BOB mainly to help keep the government machine ticking. Another possible option arises at the other extreme, and was utilized by the Nixon Administration in its attempt to mobilize the executive branch in a given direction. Since OMB sits astride the budget, management, and legislative coordination processes, it can be used with one or two layers of additional political appointees as the chosen agent of this leadership. The costs in terms of losing the assets of neutral competence are likely to be great for the President, but he can decide to pay them.

President Ford's transition advisers, in their recommendations for OMB, tried to offer a plan somewhere between these two extremes. But this "plan," which resulted from a poll of Cabinet officers, who polled their assistant secretaries, who consulted their civil servants in the spending departments, was not exactly a disinterested appraisal and hardly represented a real choice at all. The Ford team recommended cutting back OMB's policy role, decentralizing White House staff operations among six key advisers with co-equal status and Presidential access, and maintaining the Domestic Council to coordinate and examine departmental proposals; but these suggestions are of much less help than they seem to be. The six key Presidential advisers can, of course, offer advice; but to be worth listening to on any continuing basis, they need their own sources of expertise, staff work, and inside information. Thus in the Truman

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years, a BOB which had gone into partial eclipse was, with the eager participation of its director, James Webb, used extensively and to good effect by Truman's personal advisers in the White House; a more formalized arrangement with departmental participants evolved in the task forces of the Johnson years. But to carry forward in this direction will strain OMB manpower already occupied with heavy budget-making tasks and require a strong sense among political participants of the independent institutional role of OMB. Since the Truman years that sense has been considerably reduced throughout Washington, and the transition team does not suggest how it is to be restored.

As to the recommended use of the Domestic Council to examine and coordinate policy proposals, the important question concerns the *criteria* according to which the Council will conduct these operations. If its main focus is to be the analysis of the pros and cons of substantive issues, then it is doing what OMB ought to do in evaluating the connection between expenditure and policy. Moreover, the Council does not "own" a process of evaluation comparable to OMB's institutional role in budgeting. Lacking control over a process, the Council necessarily finds it difficult to be needed by the departments and thus to acquire information. It also lacks any routine requiring continuing involvement rather than *ad hoc* intervention. Claiming to speak from an office close to the President is not enough.

In short, what the Ford advisers left unanswered was how the six key advisers and the Domestic Council were to develop links to or substitutes for the neutral competence of the central budgeting agency—how they were to develop lines into the departments, how they were to create incentives for others to consult early so that Presidential advisers could do more than react too late, and how they were to develop the staff and expertise over time to know what is going on. In effect, OMB was told to get out of policy but keep tabs over the budgetary wherewithal for policy. White House staff were simply told to go forth and coordinate and advise. It's not much to go on.

In the absence of more serious concern for the uses of OMB, the Ford Administration may be slipping into another approach which emphasizes coordination almost to the point of Presidential abdication. Problems of energy, the economy, and the environment put a premium on coordinating overlapping jurisdictions within the executive branch. Presidential inclination to appoint czars over these areas is an attempt to redefine the jurisdictions at a stroke and mandate coordination. The problem is that the czars were elected by a vote

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of one to nothing. Unless the responsibility implied by popular election of the President is to be abandoned, the President cannot allow himself to be in the hands of his czars, or his cabinet officers, or his best friends, or some combination of all three. He needs to know things that even (and especially) his best friends will not or cannot tell him. He needs his own lines into the agencies and his own independent source of advice. Presidential openness is itself no answer and may easily, by overloading the President with entreaties and unverifiable information, become part of the problem.

A system where everyone loses?

In present circumstances the most useful course is to begin by returning to first principles. OMB can be valuable to Presidents in many ways, but its most appropriate use is as an independent source of analytic advice and governmental coordination in line with expressed Presidential desires. In terms of advice, OMB should be the place to look for analysis with a minimum of political body English —that is, a place with a fine disregard for the political bearing of who believes what at a given time. This is not to say that OMB staff should be politically insensitive and fail to make such marginal notes; but assessing political trade-offs should not be the main focus of OMB work.

But if this is to be the case, then OMB is not enough. There is an important truth in the comment of a leading Nixon participant in the 1970 reorganization who said, "BOB we figured was the kind of place that could make a one-term President out of anybody." If the traditional strength of BOB was its independent analytic view of pros and cons, that was also its weakness. By paying less attention to the political trade-offs involved in acting on the results of its work, BOB was in a poor position to give the political man in the Oval Office all the service he needed. And strengthening the Domestic Council so that it can perform this political function is not in itself a threat to OMB's neutral competence. What is required now is just such a strengthening of the Domestic Council to bring political and partisan judgments to bear on analysis. The need is not for bright and incisive analysts calling themselves political appointees, but for real pols on the White House staff with the wit and understanding to use analysis. A group of political appointees is needed to politicize the White House analysis of issues, not to politicize OMB.

The old problems will not disappear if a President chooses this mixed OMB-Domestic Council option. White House staff will still

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lack much knowledge and internal departmental access, which OMB will have to assist in providing. OMB staff will still be involved in important decision making in a way that could abrogate political responsibility. The demands on both the careerists' political sensitivity and the political appointees' ability to moderate their partisanship will, therefore, also be great. But the costs of the strategy pursued so far, in further inroads into impartial continuity at the government center, are likely to be larger still.

By choosing this mixed strategy, one avoids the misleading question of whether OMB is too strong or too involved in policy. For the sake of the President's own influence within the executive, and the commonsense need to link spending with policy decisions, OMB needs to be involved in policy. For the President's and its own sake, OMB has gained too much political power and lost too much of the governmental authority that stems from neutral competence. This is a matter not of *how much* power but of *what kind* of power. The current danger is that in reaction to the politicization of the Nixon years, OMB will be diminished in *all* kinds of power, and that an already weak government center will be further debilitated at a time when coherent Presidential leadership is especially important to prevent self-destructive infighting in the executive branch.

What is at stake for any President or OMB director is not the conventional question of whether White House staff or OMB is too strong or too weak. The events of recent years suggest that it is possible for them to be both, and thus to produce the worst of both worlds. OMB can prove so effective a lead agency in administration advocacy that it prejudices its chance of acceptance by a successor administration. Civil servants may simultaneously become too suspect to, and too intimate with, political leadership. Appointees and "their" careerists may provide more temporary political responsiveness but at the price of a lessened long-term capacity to respond, as career staff who are not politically identified are kept further from events and rendered less knowledgable than they should be to service a new administration. There can be more intermediaries and less mediation. Political power may become more competitive with bureaucratic power at the same time as the net experience and continuity of the government machine as a whole declines. Bureaucracy can become more politicized and more difficult to control. All of which is to say that the way things are going, we can easily create a system in which everyone loses.

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The photocopying revolution and the copyright crisis

LOUISE WEINBERG

UNTIL the 1930's in this country the ancient and necessary task of hand copying in libraries was viewed—quite properly—as beyond the scope of the copyright laws. But with the advent of the first primitive methods of photographic reproduction, which notably enhanced the ease of interlibrary "loans" by the furnishing of copies, copyright owners manifested a degree of concern. In 1935, the National Association of Book Publishers (now defunct) met for a series of conferences with an organization representing library and educational interests, the Joint Committee on Materials for Research. The book publishers argued that, whatever the state of the law, multiple copies of entire works ought not to be distributed without fair compensation to the copyright owner. Their view apparently prevailed and was embodied in a joint statement, which came to be variously known as the "Gentleman's Agreement," or the Interlibrary Loan Code of 1935. The Code, although without legal force or effect, has probably guided most large libraries in this country from that time to this. Under the Code, it was agreed that only single copies of copyrighted materials could be furnished by libraries, in lieu of loans; warnings concerning copyright violation (should further copies be made)

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would be given the copy recipients; and copies could be made only without profit to the libraries making them.

But by the early 1960's the introduction of the Xerox photocopier had begun to make the old accommodation seem unsatisfactory to publishers. During the past decade the propriety of library photocopying practices has become the focus of increasing controversy. The fact that under the Gentleman's Agreement libraries are doling out copies singly and with circumspection is not viewed by copyright owners as conclusive in view of the huge amount of material now being distributed in this way.

The photocopying explosion

Although there is surprisingly little precise information,[1]* one may estimate that in the United States today Xerox-type photocopying alone produces some 50 billion pages of copy annually.[2] Costs vary with allocation of staff, space, and equipment per photocopy made, but are said to be theoretically reducible to less than half a cent per page for single copies—well below the usual cost of copyrighted materials to consumers. Almost half of all photocopying takes place in the course of business or public or educational administration, and thus rarely intersects with copyright interests. Surprisingly, however, over 50 per cent of photocopying is thought to be of copyrighted materials.[3] Although some of this is done in store-front photocopying centers, most copying of copyrighted materials can fairly be assumed to take place where those materials are stored—at libraries, public and private, independent and in-house.

Three distinct sorts of copying activity in libraries seem to be important. First, there are photocopiers located in or near some libraries for the individual reader or researcher to use. Payment is made either by inserting a coin or by making charges to a contract account. In order to make copies the user usually borrows from the library the original published material. Thus this activity has not been of great concern to copyright proprietors.

Second, libraries themselves may staff photocopying centers, where for a modest fee to cover costs copies are distributed to requesting readers in lieu of loans. Where hundreds of readers may seek copies, but the library purchases or subscribes to no more than one or two originals, copyright owners have expressed great concern.

Finally, partly because of mounting costs and higher prices of

*All footnotes may be found at the end of this article.

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copyrighted materials, libraries are increasingly dependent upon interlibrary loan systems, typically administered through delivery of inexpensively reproduced copies via the mails. Because of the Gentleman's Agreement, the number of entire journals or whole books "borrowed" in this way has probably not been great; however, increasingly sophisticated technologies are evolving for the transfer of such materials, and it is becoming feasible that a single central computer with library terminals will be able to deliver print-outs of articles or of whole books. A recent study of the interlibrary loan activities of academic libraries estimates that nearly two million loan requests were received by the interlibrary loan departments of academic libraries alone in 1970.[4] Recently the *New York Times* reported the formation of a consortium of the libraries of Columbia, Yale, and Harvard Universities, together with the New York Public Library, to conserve resources by purchase of single copies among them of expensive sets or little-used journals; plans were also reported for expansion to include other libraries.[5] The National Science Foundation has announced a grant of $368,000 for the establishment at Wellesley College of an academic science information center designed to serve all the Northeastern states, and it is feared that operators of this center will arrange to have single copies of scientific journals serve the needs of the whole region.[6] Copyright owners have expressed considerable concern over photocopying for interlibrary loans.

It is estimated that what is copied in libraries typically is a journal article rather than a book (in a ratio of 9:1) and is overwhelmingly of a scientific or technical nature.[7] It is also believed that most articles copied from scientific, technical, or other learned journals are less than five years old.

An extreme example of large-scale library photocopying of scientific journal articles is the subject of a case currently before the Supreme Court, *The Williams & Wilkins Company v. The United States*. The plaintiff in that case is the publisher of a string of proprietary and semi-proprietary bio-medical journals. The defendants are the National Library of Medicine (NLM) and the library of the National Institutes of Health (NIH), who between them were at the time of suit filling requests for 213,000 photocopies a year, at a cost to the government of about $1.00 for each article copied. NLM was making 127,000 copies annually, largely for distribution to sister libraries; in fiscal 1969 its budget for its interlibrary loan department was $166,000. The NIH library, serving only in-house staff, approximately 6,000 of whom were regular users, was filling

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requests for 86,000 copies a year; its photocopying budget was at the time of suit $85,000. No charge was made by these libraries to recipients of photocopies. (Other regional libraries in the East have since that case taken over some of NLM's interlibrary lending functions, and some of these regionals do make modest charges for photocopies to sister libraries.) Both NLM and the NIH library have Xerox equipment utilizing microfilm input in large photocopying centers staffed by full-time employees. The equipment at NLM is particularly sophisticated; there, mobile camera units suspended from ceiling tracks are trolleyed to the stored volumes, where the requested articles are microfilmed at the shelf.

In November 1973, the Court of Claims, in an unusual reversal of its trial commissioner's ruling, held that the defendant libraries' photocopying activities did not infringe the copyrights of the plaintiffs. The Court found that such copying amounted merely to "fair use." In May 1974, the Supreme Court granted *certiorari*. Widespread attention has been attracted by the case; in the Court of Claims, briefs amicus were filed by numerous owner and user interests. And at the time of this writing, journal publishers are advancing financial support to the publishing company for the final leg of the litigation.

The "secondary services"

An important cause of the photocopying revolution, quite apart from advances in copying technology, is the advent and proliferation of so-called "secondary services," sophisticated new aids to information distribution increasingly familiar to workers in almost every research field. At their simplest, secondary services are periodicals consisting of photocopied tables of contents of other periodicals. These are sent, unlike the cumulative indexing services of yesterday, at manageable cost to large numbers of individuals rather than to libraries alone. These publications are furnished to the individual or his library *at the time of publication* of the primary journals whose tables of contents they reproduce. Thus there is no longer any need to browse through the journals themselves, or to wait weeks or months for the periodical indices to catch up with the literature. Readers may already be familiar with tables of contents distributed to them weekly by the libraries of institutions for which they work. At the Harvard Law School, for example, a publication entitled "Tables of Contents" is distributed weekly to members of the faculty. (The publications office of the library has thus far held back from

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distributing it beyond the faculty.) "Tables of Contents," which often appears prior to appearance of the original publication on the library shelves, is an informal, stapled collection of 12 to 20 photocopied pages of contents as they appear in the original law reviews. The selection from the more than 130 law journals now published appears to be fairly random. Nevertheless, "Tables of Contents" is useful to copies of articles first brought to readers' attention through that medium.

The most effective and widely-known secondary service publication in the sciences is probably the periodical *Current Contents*, a publication of the Institute for Scientific Information in Philadelphia. *Current Contents*, which costs $120 a year for individual subscribers but is available at a reduced rate to libraries, appears every week in convenient pocket-sized form. It is published in separate, quarter-inch-thick editions for Environmental Sciences; Life Sciences; Medicine; Pharmacology and Medicinal Chemistry; Chemistry; Physics; Agricultural, Food, and Veterinary Sciences; Engineering and Technology; and Social and Behavioral Sciences. Each edition contains reproductions of nearly every relevant table of contents from journals appearing that week, and the editors boast that these tables of contents often appear in advance of journal availability. This writer's experience is that virtually every bio-medical scientist interviewed confesses a degree of dependence upon *Current Contents;* there is a diminished impact in other research fields, probably depending upon the number of journals in each field requiring continual scanning.

For a fee, *Current Contents* can also run literature searches, its so-called "Ascatopics" service. This service saves researchers the trouble of browsing through back issues of *Current Contents*. A similar service is available at the National Library of Medicine, where titles of all articles from over 1,000 bio-medical journals are stored on magnetic typewriter tape. Scholars can work with NLM's giant MEDLARS computer at telephone-linked terminals in some 200 remote libraries to direct their own programming for literature searches; this is the "on-line" information retrieval system NLM calls MEDLINE. A data base of three years is maintained, current data are added monthly, and an average of 450,000 citations is made available. Sophisticated additions to the system are made from time to time, including a serial title searching system, SERLINE. These systems print out information well beyond the simple article citation, and always include the publisher's identity.

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MEDLARS II, an improved system with even greater capability, is expected to be operational soon.

Augmenting the scope of the secondary services is the appearance of publications containing current abstracts of journal articles, rather than simple citations or tables of contents. The American Institute of Physics, for example, owns and publishes *Current Physics Abstracts;* subscriptions are also available for the same publisher's microfilm abstracts, *Current Physics Microform.* A late development is the appearance, for leasing or licensing, of computer-tape-stored abstracts such as *Chemical Abstracts Service.* The National Science Foundation has been funding projects for the computerization of scientific information, and computer tapes of abstracts of science articles are stored and shared, with NSF assistance, by major abstracting and indexing services, such as Searchable Physics Information Notices (SPIN).

The new market for copies

Although these new secondary services facilitate browsing through the literature, they ultimately encourage shopping for copies rather than for original journals. Many of the journals are available only by subscription, and can be purchased as single back issues only at great delay and inconvenience. Thus the underlying assumption of these secondary services is that their users will be able to obtain photocopies from libraries. The services also make it very easy to order reprints from authors: *Current Contents* carefully furnishes an address index of all cited authors in the back of each issue. The inevitable result of this new information distribution system is the creation of a huge demand both for reprints and for photocopies of articles. With these resources readily available, the new system can create only negligible additional circulation for the original journals. Presumably new circulation is generated only when it is perceived from use of the secondary services that one particular journal is repeatedly helpful to the reader.

The new demand for reprints and copies differs from the response of the reader group which the journals would have reached in any event with the aid of the old-style cumulative indices. There is a new group of readers whose demand has been stimulated—who, like other consumers, are responding to advertising rather than primary need. This business is obviously profitable to "advertisers" like *Current Contents;* but it is only a negligible source of profit to the original publications. Only after an author's gratis stock of

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reprints is exhausted are reprints purchased from the publisher by authors or readers, and there comes a point where reprint requests are in lieu of subscriptions. Although the market for copies which this new business stimulates is not the creation of original publishers, who probably could not have reached such a market themselves, it is, of course, a business wholly dependent on the existence of the original publications.

Publishers have not been entirely quiescent about the secondary services. There is the initial problem—of greatest interest to authors—of insuring accuracy of titles and of abstracts, and the attempt to bring copyright law to bear on that problem.[8] In addition, there is increasing recognition that the mushrooming demand for photocopies and reprints is attributable to the influence of the secondary services. *Scientific American* has advised some authors not to fill reprint requests coming from readers clearly in unrelated fields, on the grounds that these requests are generated by the distribution of secondary service information, do not represent primary research needs or interests, and therefore are in lieu of subscriptions, since theirs is a general readership magazine. The publisher of *Health Devices* has refused to sell subscriptions to the *Williams & Wilkins* defendants, NIH and NLM, unless those institutions return a fee commensurate with their photocopying of the journal in question. This journal places responsibility for much of this copying upon *Index Medicus*, a computer-based citation index system published and distributed monthly by NLM through the Government Printing Office (GPO), which contains citations to over 2,500 biomedical journals. *Index Medicus* is expensive, at $155 a year; subscribers in the main are libraries. However, *Abridged Index Medicus*, also a GPO publication, is readily available to individuals at $22 a year. It is ordered from the GPO like any other government publication, and is one of a group of similar NLM publications available to the bio-medical professions. It reportedly enjoys a circulation of almost a quarter of a million copies monthly; subscribers range from dental hygienists and pharmacists through workers on the forefront of medical research.

At the same time that a huge market for copies has been created, scientific publishing, a marginal operation at best, has fallen on hard times.[9] It is difficult to generalize over the range of journals from proprietary through semi-proprietary and non-profit publications, but the situation is probably critical for many. A non-profit journal is typically produced in affiliation with a professional society. Dues to the society include the cost of a subscription to the

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journal. Little advertising, if any, is accepted; the journal relies for support ultimately upon the financial health of the sponsoring society, but immediately upon the subscription fees subsumed under society dues and upon "page charges" (fees per page paid by contributing authors to the journal for the privilege of being published). Subscription charges and page charges are all underwritten by institutions employing journal readers and authors, and ultimately are funded by contracts and grants, for the most part from the federal government. The profit-making journals, and those under independent contract with learned societies, tend to be more dependent upon advertising and subscription fees than are the institutionalized journals. Many in both categories also make higher subscription charges to libraries, which are increasingly seen as an important source of support.

Recent cutbacks in public funding and contracting, combined with a trend toward increasing numbers of low-circulation specialists' journals, as well as the general problem of inflation-driven costs and supply shortages, have brought the scientific publishing industry to a kind of crisis.[10] At the same time, mounting library subscription charges and other costs have increased interlibrary dependence upon shared subscriptions and photocopying. Although the problem of copying had existed in large-scale form since the invention of the Xerox machine, and had been aggravated by the growth of the secondary services, the new demand for royalties for photocopying seems to have been precipitated by a rapid deterioration in the economic position of scientific publishers, related to external economic forces. Demands began to be made upon such large institutionalized photocopying services as the defendant libraries in *Williams & Wilkins;* the copyright flag was waved; Congress was approached to include a compulsory photocopying license provision in the latest version of the copyright revision bill.[11] But the publishers have never been able to make a persuasive case that copying is destroying the journals. The point appears to be, rather, that *licensed photocopying could save them.*

The inadequacies of copyright law

In their attempts to obtain relief scientific publishers have looked largely to copyright law. Yet existing copyright law appears inadequate to deal with the issues raised by the current controversy. The first and most obvious difficulty is the archaism of old law, whether judicially evolved doctrine or statutory language, when

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brought to bear upon unforeseen new information technology. Deciding cases in such a context is an awkward business. A comment of Joseph Story, the great 19th-century Justice of the Supreme Court, is often quoted:

> [Copyright cases] approach, nearer than any other class of cases belonging to forensic discussions, to what may be called the metaphysics of the law, where the distinctions are, or at least may be, very subtile and refined, and sometimes almost evanescent.

A feeling for the abstruseness of copyright law in its response to new technology may be conveyed by quick reference to the kinds of questions our courts have struggled with under the existing Copyright Act since its enactment in 1909:

> Whether a phonograph recording of a musical composition is a "copy" of the sheet music, for purposes of a finding of infringement;
>
> Whether public sale of a sound recording is a "publication" of the underlying composition (throwing the work into the public domain);
>
> Whether performance of a sound recording for profit infringes any copyright in the recording or in the underlying composition;
>
> Whether cable television relay of a broadcast performance of a sound recording is an infringing public performance for profit on the one hand, or a mere transmission or reception on the other;
>
> Whether piracy by taping phonograph records of musical compositions and re-recording them for sale constitutes "copying" for purposes of a finding of infringement;
>
> Whether an individual's private tape recording of a broadcast performance of a sound recording is an infringing copy of the recorded work on the one hand, or a "fair use" on the other.

The existing Copyright Act gives a copyright proprietor the "exclusive right" to "copy" the protected work, but as the last of the above quoted examples illustrates, advances in copying technology render the claim to such an absolute right all but untenable. Therefore the judge-made doctrine of "fair use"[12] has been spun out to avoid the impropriety of penalizing as infringement uses which ought to be freely permitted. But where does "fair use" end and infringement begin?

A fair restatement of the considerations courts weigh in characterizing a particular use of copyrighted work as "fair" rather than infringing can be found in the proposed copyright revision bill now before Congress:

> In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include: (1) the purpose and character of the use; (2) the nature of the copyrighted work; (3)

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> the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the potential market for or value of the copyrighted work.[13]

Yet in the case of library photocopying these considerations can advance the inquiry only so far. We have come a long way from the case of the monk copying painfully in his cell in order that future ages might read. Copyright proprietors claim that even if each individual act of library photocopying constitutes a "fair use," the problem is so great in the aggregate as to effect a shift from fair use to infringement. But why should a use that is fair in an individual case be held unfair simply because so many individuals make the use? This was a stumbling block for the Court of Claims in the *Williams & Wilkins* controversy.

The proposed copyright revision bill currently before Congress also appears to approach the problem from a predisposition to treat fair use as "fair" without regard to how often such use occurs:

> [T]he fair use of a copyrighted work, . . . for purposes such as . . . teaching, scholarship, or research, is not an infringement of copyright.

But the proposed language appears to beg the question by beginning with the conclusion to be reached: The use of a work for research is a fair use. The language cannot mean that photocopying for the enumerated purposes can never be infringement, in view of obvious contingencies which would require a contrary interpretation: the wholesale reprography of textbooks for distribution to schoolchildren, for example. Thus, the proposed enactment does little more than set the stage for judicial analysis. The fundamental difficulty remains: What may be fair use in the individual case may seem less so when advanced technology can multiply the transaction endlessly.

Moreover, there is the problem of the secondary services. Old understandings of fair use in the context of library photocopying may have been helpful when applied to the struggle of a single industrious researcher to wrest from great libraries some few paragraphs of which he has urgent need. But they do not seem to fit the new system. What is really happening is that libraries are reaching out to scientists with the suggestion, "Perhaps you might like to try this one?" The dissemination of copies this engenders is a colossal unauthorized use of the intellectual property upon which the whole system rests.

Lawyers may find themselves reminded of the notorious 1966 *Ginzburg* obscenity case in the Supreme Court, in which the Court took an exceptionally restrictive view of Ginzburg's rights under

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the First Amendment—justifying its probably unjustifiable ruling by referring to the fact that Ginzburg was not only furnishing pornography to an eager market, he was selling it aggressively, or pandering. While it is doubtful that this consideration ought to have made a difference in *Ginzburg*, perhaps in the case of library photocopying the secondary services—*Current Contents,* MEDLINE, *Index Medicus*, and the rest—*should* make a difference. But under current notions of "fair use" and in the absence of remedial legislation, this factor would seem to be without legal impact.

Apparently recognizing the inadequacy of the "fair use" doctrine to deal with large-scale library photocopying, the Senate has added a controversial new section to its version of the copyright revision bill. Under its terms, libraries might become liable even for making single copies, if the copying is "systematic." The language seems intended to remove photocopying on the *Williams & Wilkins* scale from the category of "fair use." But even if it were possible to say what would be "systematic" and what would remain "fair use," this concession to owner interests would still not empower courts to give to scientific publishers the kind of relief they may require. This is, as we shall see, because of other, equally fundamental inadequacies in existing copyright law, which the proposed revision bill would not remedy.

Intellectual "property" and the dissemination of ideas

Underlying the tension between fair use and infringement is another, far more fundamental tension in copyright law, emanating neither from the courts nor Congress, but from the Constitution of the United States. All the power Congress has to legislate the rights of authors and readers flows from the Copyright Clause of the Constitution:

> The Congress shall have power . . . to promote the progress of science . . . by securing for limited times to authors . . . the exclusive right to their writings . . .

It will be seen that Congress is given this power not for the benefit of authors at all, but "to promote the progress of science." Writings are given by the Clause to the public, and save for the power to grant authors some property in them for limited times, Congress lacks power to prevent anyone from copying anything. This is what we mean, of course, when we speak of *the public domain.*

The framers may have felt it undesirable to give greater scope to a monopoly of any kind. But implicit in the chariness of the grant of

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copyright power is the even more fundamental policy of our Constitution in favor of dissemination of ideas, a policy that is also reflected in the First Amendment. We are a people who believe in a very free marketplace of ideas.

What this means for the progress of science is that scientists must be free to use and to build upon past work. How, then, can the authorization of even a limited monopoly in an idea "promote" its "progress"? It was the insight of the framers, as it has been of writers and thinkers before and after them, that the fragility of the marketplace in ideas is such that to allow free piracy, plagiarism, or counterfeiting of writings would, although seeming to broaden dissemination in the short term, have the unhappy effect of discouraging production of writings in the long term. Thus the measure of the monopoly Congress could have granted in the 1909 Copyright Act, and the measure of the monopoly the courts can enforce under the Act, is just so much as will promote the flow of ideas, but no more.

So uses of copyrighted work may be thought to be fair uses when they do not discourage production and dissemination of writings. And so the twin concerns, for the public first, but in that interest also for the copyright proprietor, explain why courts characteristically embark in copyright cases upon economic analyses: "In what ways might the alleged infringement have hurt the plaintiff's market?" Such probings are not simply judicial weighings of equities or computings of damages. They are compelled by the fact that the Constitution does not give Congress the power to grant authors compensations except where failure to do so would discourage the production of writings.

It may be advisable to consider briefly at this point why *publishers* have always been permitted to assert copyright. The same considerations in the public interest which favor the grant of a limited monopoly to authors favor transferability of the right to publishers. The crucial role of publishers in bringing ideas to the market warrants that their economic interest in freedom from unauthorized copying be protected. Publishers who become proprietors of copyright have therefore always been permitted to assert all the rights the author could have. The Constitutional use of the word "authors" is not troublesome since it is generally to the benefit of authors to be able to sell outright, as well as to license, their work.

If an economic analysis is compelled in copyright cases, and economic injury must be shown before courts can vindicate copy-

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right interests, how does this affect the lawsuits of scientific publishers? The plaintiff in *Williams & Wilkins* was, in fact, unable to demonstrate persuasively that photocopying was harming scientific journals economically. It is true that each of the two great government libraries involved takes only one or two subscriptions to each of the 3,000 domestic and foreign bio-medical journals published. Yet it would simply not be feasible for even the largest libraries to increase the number of subscriptions to meet the demand of many users for current materials by actual loan of such materials, even were they not circulated beyond the library reading room. Whole additional libraries of space would be required, as each additional set of 3,000 journals (or whatever the relevant figure happened to be) was accumulated. Moreover, individual researchers cannot subscribe to all of the journals from which they seek copies of articles. But if broad distribution of copies does not seem to impinge upon a publisher's market, can a finding of infringement be made, consistent with the policies underlying the Copyright Clause?

Of course, owners and users are free to contract, and the courts will enforce a reasonable licensing agreement. But libraries have categorically refused to remit royalties to scientific publishers.

The unavailability of appropriate relief

There are further difficulties. Copyright law is a creature of common lawyers, who think in common-law terms. Remedies must fit the injuries, and a defendant's conduct must be causally related to those injuries. Even if the case could be made that scientific publishers need, perhaps for their very survival, the royalties that licensed photocopying could give them, there is nothing in that need to compel a finding that current photocopying practices infringe copyrights on scientific journals.

There is also the not inconsiderable difficulty under current copyright law of framing appropriate relief in a particular case. The remedies available where infringement is found may not at all be what the plaintiff requires. Damages, if proved, can be recovered, but in the case of library photocopying actual harm to publishers cannot persuasively be shown. All the profits the infringer has made from his infringement could be awarded to the copyright owner, but again in the case of library photocopying, there *is* no profit to the infringer. Where neither damages nor profits can be demonstrated, the statute provides for awards from a schedule of minimum damages (not inconsiderable in the aggregate). In the case of

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library photocopying, however, a huge award of statutory damages against a particular library would injure the library to the ultimate disadvantage of a publisher, while a small award would constitute only a cheap license to go on infringing.

The ultimate remedies of copyright proprietors—injunction, impoundment, and destruction—may seem so extreme as to deter a finding of infringement. The 1710 Statute of Anne giving copyright to English publishers provided as ultimate remedy for infringement the right to "damask and make waste paper of" the offending copies,[14] but to Americans such confiscatory power conjures up dark visions of book burning. In the case of library photocopying, the ultimate weapon appears to be the injunction against all library photocopying practices. Inevitably, the existence of such power casts a pall over discussion. Courts as well as commentators tend to proceed in their analysis from the stark question: "What would be the effect on science if photocopying were stopped?" But in the case of library photocopying, all the publishers have been after is a simple award of royalties. With all the panoply of their powers, our courts seem helpless to grant this obvious relief. If the case does not come under the statutory compulsory licensing provision for phonograph recordings, or if the parties have been unwilling or unable to set up a private licensing arrangement, there seems to be no suitable remedy. Now, an imaginative court with injunctive power probably has all it needs in the way of authorization to require parties to come to terms; but courts seem not to exercise these powers in the copyright context.

Finally, direct approaches to the secondary services for compensation—a step currently contemplated by scientific publishers—do not seem promising. The position of the publishers appears to be even weaker as against the services than it is as against photocopiers. There is no copyright in titles, and there is little protection for writings which in any event can be stated in only a limited number of ways, like tables of contents. Revision of article abstracts (with proportionately decreased accuracy) is being resorted to by abstracting services to avoid remaining copyright problems. The primary publishers, in sum, have been searching for copyright infringements from which to extract some compensation from the secondaries; but the latter, although so dependent upon the continued existence of the primaries, do not compensate them in any way. Copyright law is perceived to be inadequate to deal directly with the question whether the secondary services ought to make some contribution to the continued survival of the learned journals,

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and meanwhile the photocopying explosion continues without any sign of abatement.

If copyright law is to serve as an effective mechanism for the implementation of information policy, it would appear that only Congress can make it so. It is also possible that remedial legislation beyond the scope of the copyright laws may be required.

Remedial legislation

Much of the commentary on the problem of the learned journals has focused on the inadvisability of permitting copyright owners to block photocopying or to require advance permissions for photocopying. To quote variously from the opinion in *Williams & Wilkins* in the Court of Claims:

> There is no doubt in our minds that medical science would be seriously hurt if such library photocopying were stopped. . . . In the absence of photocopying, the financial, time-wasting, and other difficulties of obtaining the material would well lead . . . to a simple but drastic reduction in the use of . . . many articles. . . . The probable effect on scientific progress goes without saying. . . .

The important desideratum appears to be the protection of the familiar system whereby individual researchers may readily obtain copies of scholarly journal articles from libraries. No degree of proprietorship ought to authorize interference with this demonstrably valuable dissemination of ideas. But what has been generally overlooked is that no one, least of all the publishers, is interested in injunctions or the extraction of prior permissions. Photocopying practices have always been encouraged by the scientific publishing industry, and the halting or slowing of photocopying cannot possibly contribute to the well-being of that industry. What the publishers want is a simple licensing arrangement which will provide a reliable source of income. As the chairman of the board of the Williams & Wilkins Company testified at Congressional hearings in 1967:

> We feel that it is unrealistic and not in the public interest to consider restricting in any way the use of photocopying devices. They serve a useful purpose in the dissemination of knowledge. Since we, as publishers, are in that business, we certainly don't want to see the spread of knowledge curtailed. . . . To us the only solution to the problem is a simple system of royalty payments with a minimum of red tape. . . .

Again, in the brief for the plaintiff in the Court of Claims case, the publishers stated, "The only way to save private limited circulation technical journals from extinction is to broaden the income base."

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In spite, or perhaps because, of the fact that so much attention has been focused upon the question of the effect upon science if photocopying were stopped, there has been little or no consideration of what would be the effect upon science of the imposition of licensing fees on copying costs. Some work has been done, however, on the effect upon libraries of imposing licensing fees upon photocopying, particularly on the subject of transaction costs incurred in collecting the fees and remitting them to publishers.[15] Libraries have refused to negotiate licensing agreements with publishers because—although the amounts under discussion are quite agreeable to the libraries—the accounting problems presented seem insuperable. As the libraries put it, they would be spending dimes to collect nickels.

Even if courts could begin to see their way clear to awarding a fixed royalty to publishers under the Copyright Act (no doubt by requiring the parties to file an agreement[16]), it is extremely unlikely that they would do so in the face of affirmative arguments about the injury that imposition of royalties would inflict upon libraries. Similarly, in considering the possibility of drafting a compulsory licensing provision for photocopying in the revision bill, legislators have been deterred by the problem of transaction costs. Senator McClellan, Chairman of the Senate Judiciary Committee's Subcommittee on Patents, Trademarks and Copyrights, commented during hearings on library photocopying in the summer of 1973:

> Well, I am not going to get into the business . . . I think I have a full measure of sympathy for all interests; I mean, I would like to see the publisher and author and so forth compensated, and at the same time, I don't know how you could base it on this five per cent rate paid by whoever gets a copy, and make this thing work.

Can compulsory licensing work?

But would there be any impracticality, or injury to libraries, in the imposition of a licensing arrangement upon photocopying? Libraries argue that the task of collecting and redistributing the modest royalty demanded would take the resources of a scholars' version of ASCAP—the American Society of Composers, Authors and Publishers, which since 1914 has operated as a non-profit clearinghouse collecting and distributing royalties due composers, lyricists, and publishers under licensing agreements and compulsory license law. ASCAP's transaction costs are high, reportedly exceeding 18 per cent. But the libraries' fears about bookkeeping do not

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seem convincing. Even if a version of ASCAP were needed, publishers argue, there is nothing inherently difficult or expensive in establishing one. Other commentators suggest that modern computer technology could be utilized to minimize the complexity of administering royalties, with or without the need for a central clearinghouse. It is possible that the alleged difficulty has been blown out of proportion, for the technical publishing industry is not Tin Pan Alley. Directly negotiated payments to each of the 50 publishers responsible for 95 per cent of scientific publishing would hardly require anything like the services of an ASCAP. The cheapest and simplest way of handling the problem would seem to be through private negotiation, without the intervention of courts or Congress, leading to payment of a flat fee at the time of annual library subscription to the particular journals. The flat fee charged could be based upon the publisher's estimate of copying practice, and the library would be free to protest if its experience of copying practice with the particular journal did not warrant the charge.

The price libraries pay for subscriptions should not be raised for this purpose, since libraries would then be able to evade the obligation by use of shared subscriptions. Photocopying practices should be monitored separately. In any event, there is a limit to how high subscription prices may be raised, as they are not ordinarily passed on to consumers of copies. But a licensing fee, together with the minimum transaction cost involved, could fairly be passed on to individual researchers and eventually to the institutions and contracts supporting them. Where distributors of photocopies customarily make no charges, of course, they would have to assume a new burden of making photocopying charges, or absorb the licensing fee themselves. Thus the mechanics of working out private payments of royalties would not be insurmountable.

No one has argued that passing on such costs would be harmful to science, in the way that stoppage or imposition of a permissions requirement would. In the *Williams & Wilkins* case, the libraries failed to demonstrate in the interest of science that a modest charge per page or per copy, in addition to charges already paid by researchers requesting photocopies, would place an undue burden upon science, or upon supporting institutions. At NIH and NLM, of course, no charge was made for photocopies; the government supported the research directly at the point of information distribution, rather than by means of contract support. But the government did sustain copying costs, and an addition to such costs reflecting royalties would simply represent another application of the same prin-

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ciple by which users could be required to pay somewhat greater than usual charges for copies.

But of course the libraries have refused to negotiate. Could Congress, consistent with the policies underlying the Copyright Clause, provide royalties to certain publishers for photocopying? Such copyright protection as scientific publishers now enjoy seems ineffective to provide the kind of relief they need. What they want to assert, however, is not a property right in the ultimate sense of a right to exclude, but in the limited sense of a right to collect a rent, a toll, or a fare. What they attack is not the use of their property as such—to prevent such use could not serve their own interest or the public interest—but only the users' free ride. To "promote the progress of science" Congress could reinforce the limited copyright protection already given scientific publishers by supplementing the existing arsenal of court remedies with an authorization to courts to award reasonable royalties for photocopying.

Redress and responsibility

Congress has already provided similar relief for an area of the publishing industry in which it would not be in the public interest to allow copyright owners to block the making of copies. In the case of sound recordings, it is provided that once a copyright proprietor of a musical composition allows one recording to be made, anyone else may record the piece. But since it would be inequitable to allow such use without compensation to the copyright owner, a statutory royalty of two cents per side is enacted. The described provision is spoken of as a compulsory license. It is true that to administer this statutory arrangement, ASCAP has become a necessary feature of the industry. But given ASCAP, the system has become so successful that despite serious debate the various recent copyright revision bills have retained compulsory licensing of sound recordings.

Could Congress enact a compulsory photocopying license for learned journals which would not, in its specificity, require the services of a clearinghouse like ASCAP? One answer might lie in the granting of a blanket authorization to photocopy, accompanied by an authorization to federal courts to award reasonable royalties for photocopying in the event of failure by an institution providing photocopies to negotiate a satisfactory royalty with a copyright owner upon appropriate request. Congress could require that court-awarded royalties take the form of an annual flat fee (in any event

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not to exceed so many cents per page copied, based on a showing of copies made from the plaintiff's publications within some fixed period). The point would be to avoid court imposition of detailed bookkeeping upon a library, but to allow the court to render the kind of award it has heretofore felt unauthorized to make.

Such a provision would not affect publishers who are not concerned enough about a copying problem to make the demand, or libraries so small as not to warrant the demand. It would also leave unchanged the situation of the individual researcher at the coin-operated machine. With an actual original in his hand, he cannot be said to be photocopying to the great prejudice of anyone's interest. In addition, the obligation to negotiate could also be placed upon other agencies contributing to copyright infringement and able to offset some of the difficulties scientific publishers currently struggle with unaided. If the secondary services and the manufacturers of computer and photocopying equipment could also be made vulnerable to royalty demands, some of the burden would be shifted from the libraries.

But it may be thought that copyright is too clumsy and indirect a mechanism for the provision of what, after all, appears to be a subsidy. Instead of setting up a scheme in which the federal government pays researchers to pay libraries for copies, requiring libraries in turn to remit some portion of these fees to publishers, one might consider the advisability of a more direct subsidy. There are sound reasons, however, for not allowing any degree of direct dependence of scientific publishing upon the government. On the other hand, tax and postage remissions might be appropriate. Although such legislation is beyond the scope of the power given to Congress by the Copyright Clause, it would be consistent with the policy to "promote the progress of science," and could doubtless be justified under the commerce power. Despite the attractiveness of the expedient, such a remedy is inferior to one under the copyright laws because it cannot compensate the journals in direct proportion to the now unauthorized uses being made of them. It would not enable them to enjoy the fruits of the photocopying revolution.

But whether or not Congress or the courts act to redress the imbalances in the scientific information industry, it is time for the various segments of the industry to reassess their responsibilities. These services and their users should recognize an obligation to make a fair contribution to the continued survival of scientific publishing, for that continued survival is of overriding importance to the public, to the progress of science, and not least of all to themselves.

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FOOTNOTES

[1] Surveys of copying practices appear inconclusive. The celebrated 1962 report, *Survey of Copyrighted Material Reproduction Practices in Scientific and Technical Fields,* commissioned by the National Science Foundation from George Fry and Associates, is now generally considered to be obsolete. The most prestigious study, a 1967 report of the Committee to Investigate Copyright Problems, commissioned by the United States Office of Education, supplies some still useful information and indicates the scope of the problem. For a survey of literature in the field, see N. Henry, "Copyright, Public Policy, and Information Technology," *Science*, vol. 183 (1974), p. 384.

[2] In L. Hattery and G. Bush, eds., *Reprography and Copyright Law* (Baltimore, Port City Press, 1964), p. 50, J. Koepke reports that in 1962, 3.6 billion copies were being made annually. In his *Establish a Select Senate Committee on Technology and the Human Environment*, J. Dessauer (a corporate officer of Xerox) reports that by 1967 the figure was 27.5 billion.

[3] G. Sophar and L. Heilprin, *The Determination of Legal Facts and Economic Guidelines with Respect to the Dissemination of Scientific and Educational Information as it is Affected by Copyright—A Status Report* (Washington, D.C., Bureau of Research, Office of Education, Department of Health, Education, and Welfare, 1967), p. 7.

[4] V. Palmour, E. Bryant, N. Caldwell, and L. Gray, *A Study of the Characteristics, Costs, and Magnitude of Interlibrary Loans in Academic Libraries* (Westport, Greenwood, 1972).

[5] E. Pace, *New York Times*, section 1, part 2 (March 24, 1974), p. 59.

[6] C. Benjamin, *Science*, vol. 184 (1974), p. 610.

[7] Henry, *op. cit.*, p. 388.

[8] See H. Koch, *Copyright of Author-Prepared Abstracts* (Berlin, Proceedings of the International Council of Scientific Unions Abstracting Board, July 10, 1974), and "Copyrighting Physics Journals," *Physics Today* (February 1974), p. 23. The author is the director of the American Institute of Physics.

[9] According to the Library of Congress, three technical journals are born and one dies each day. See also G. Cipe, *Nearer to the Dust: Copyright and the Machine* (Baltimore, Williams and Wilkins, 1967), p. 94.

[10] J. Walsh, "Journals: Photocopying is Not the Only Problem," *Science,* vol. 183 (1974), p. 1274; P. Abelson, "Troublesome Portents for Scientific Journals," *Science*, vol. 186 (1974), p. 693.

[11] *Hearings*, Subcommittee on Patents, Trademarks, and Copyrights, Senate Judiciary Committee, 93rd Congress, 2nd Session (July 31 and August 1, 1973).

[12] Fair use may be an illustration of the maxim, *De minimis non curat lex.* A critic may quote a few lines in the course of a review, or a lexicographer may build upon prior dictionaries. But one cannot say with assurance that these examples illustrate principles of general application. Jack Benny was once held to have infringed a popular work by making a parody of it, and—somewhat more understandably—cartographers are required to go again and again to the terrain, and not to each other, to make a map.

[13] S. 1361, 93rd Congress, 2nd Session (1974). One or another version of the bill has been before Congress for nine years, stalled by disputes between interest groups. The bill would totally revise copyright law.

[14] See generally B. Kaplan, *An Unhurried View of Copyright* (New York, Columbia University Press, 1967), p. 7.

[15] The argument based upon transaction costs is emphatically stated in S. Breyer, "The Uneasy Case for Copyright: A Study of Copyright in Books, Photocopies, and Computer Progrgams," *Harvard Law Review*, vol. 84 (1970), pp. 331ff.

[16] Federal trial courts have great powers, frequently exercised in antitrust, desegregation, and similar cases, to require the parties themselves to come to terms —to file proposed plans and consent decrees for court approval. Thus the court is spared the unseemly task of "legislating" for the case or of drafting a contract for the parties.

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The Los Angeles Affliction: Suggestions for a Cure

WARD ELLIOTT

YEARS ago, when syphilis was introduced to the Old World, the French called it the Italian disease; the Italians called it the French disease; and the Indians called it the Portuguese disease. Today, there is no such diversity among urbanologists in naming what it is that the automobile has done to modern cities: They all call it the Los Angeles affliction. Los Angeles has led the United States, as the United States has led the world, in the exaltation of private transportation and the abasement of public transportation. Its freeway system is unrivalled in reputation, if not in size (New York's is bigger); its public transit system, while of considerable size, with the fourth largest bus fleet in the country, is of negligible reputation. Only eight per cent of Los Angeles commuters use public transit, compared with 20 to 30 per cent in San Francisco, Boston, Washington, Chicago, and Philadelphia, and 45 per cent in New York.

Los Angeles is also the casebook example of the penalties of orienting a city around the automobile. One third of its urban area and two thirds of its downtown area are devoted in one way or another to cars. It had the first and worst photochemical smog in the country, three quarters of it from cars and trucks. Its leaders have publicly testified that its economy would collapse if the federal Clean Air Act were to be enforced in the Los Angeles Air Basin by its present 1977 deadline, or if there should be a sudden, large contraction in the oil supply. Even if oil holds out and enforcement of the Clean Air Act is delayed, available downtown space has become so limited, and road construction so costly, that roadbuilding, the traditional California decongestant, has lost much of its charm. New construction is down sharply, and the prospects for building more roads, especially downtown where congestion is worst, are lower than they have been for 20 years.

Urban experts have insisted for years that the Los Angeles affliction is wasteful and irrational. Since private transportation costs two or three times as much per seat mile as public transportation,

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and 10 times as much in road space, fuel, and air pollution, they argue that the overwhelming preference for automobile use results from an irrational "love affair with cars." For a cure they prescribe large does of federal money for rapid transit systems, comparable to the amounts which spurred the highway boom of the last 20 years. Despite the machinations of the Highway Lobby, and the contrary inclination of the public, many political leaders have accepted this judgment. Even as public transit patronage has plummeted (from 23 billion riders nationwide in 1946 to 5.3 billion in 1972), public transit has attracted a boomlet of political support. Congress established the Urban Mass Transit Administration (UMTA) in the mid-1960's (when the transit industry nationwide first failed to cover its costs), gave it equal status with the Federal Aviation Agency and the Federal Railroad and Highway Administrations, and allocated it several billion dollars. It seems likely that $11 to $12 billion more will be made available for urban transit over the next six years, of which, in the most recent bill, almost $8 billion was earmarked for four-to-one matching grants for transit system construction.

With the prospect of federal assistance in the air, many urban leaders have pushed for new rapid rail systems or additions to old ones. Mayor Thomas Bradley of Los Angeles attempted to make up for his city's longtime indifference to transit by declaring last spring his "total commitment" to build a system that would dwarf all others of its generation in size and cost. The proposed system was to be 145 miles long, twice as long as San Francisco's Bay Area Rapid Transit (BART), and was to cost $8 to $10 billion —almost twice the combined cost of BART ($1.5 billion) and all the freeways of Los Angeles and Orange Counties ($3.4 billion). The proposal fired the imagination of regional civic leaders, winning the endorsement of the Los Angeles County Board of Supervisors, the Southern California Association of Governments, the League of Women Voters, a long list of chambers of commerce, labor organizations, and environmental groups, the Los Angeles *Times,* and even the Automobile Club of Southern California.

The one constituency it did not attract was the public, who rejected the proposal at the polls in November. Los Angeles County voters had already turned down a much less ambitious transit proposal in 1968, and they were annoyed by a two-month bus strike which concluded only a few weeks before the vote on the transit proposition. Though opinion polls showed a widespread feeling that improved transit "would be a good thing," the public's sympathy for mass transit did not extend to using it, let alone to paying for it for others to use. Along with their neighbors in Orange County, they rejected the 1974 proposition amid groans from the *cognoscenti* that this demonstrated once again their incapacity to understand what is good for them. Some blamed the strike and called for another vote when the public had recovered its reason. Others concluded that the public's car-fixation was so hopeless that nothing

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further could be done till private transportation collapses of its own weight.

Yet, given the alternatives offered them, the Los Angeles voters and their counterparts in other cities, who seldom use rapid rail and do not wish to pay for it, have probably chosen a more rational course than that advocated by the experts, both as to their own travel habits and as to the need to buy rapid rail. Cities that have invested in new rapid rail lines have found that they attract former bus passengers in large numbers but divert only the equivalent of one year's growth in private transportation traffic. In Chicago, for instance, two new UMTA-financed lines raised total patronage by two per cent from 1969 to 1970 but only temporarily stemmed the secular decline. Patronage in 1971 was only one-half per cent higher than in 1969, and 1972 patronage was almost three per cent lower. Boston and Cleveland had the same experience with new lines. San Francisco expects BART to divert one per cent of its auto traffic, and no significant traffic diversion is expected to result from the metro in Washington, D.C. The one new line which does appear to have had some effect on vehicular traffic is Philadelphia's Lindenwold line, but even this has cut traffic on the Benjamin Franklin Bridge, which it crosses, by no more than two or three per cent. Rapid rail would have even less effect in Los Angeles, which is perhaps half as dense as these other cities, and lacks concentrated employment centers with high-volume access corridors.

For such meager prospects of alleviating congestion, a $10-billion rail system seems excessive, unless it is measured by the same kind of non-utilitarian and irrational standards which the experts condemn when they impute them to ordinary citizens "fixated" with their cars and freeways. The rail system would have been grandiose in the Los Angeles tradition, a monument to the city's refusal to be outdone by others; but it would not have gotten people out of their cars, nor significantly reduced the overload on roads, air, and fuel. It offered to move 20 or 30 times *fewer* people than freeways at twice as much public expense, and it seemed to fit its sponsors' "love object" model more closely than the cars and freeways it was supposed to replace.

THE ordinary citizen's use of private transportation instead of public is indeed wasteful of road space, air, and fuel, especially at rush hour, when average vehicle occupancy runs from a low of 1.1 in Los Angeles to a high of about 2.0 in some Eastern cities. *But it is not irrational, since it appears to derive from ordinary rules of economic utility.* Since private road users pay only a fraction of the public costs of driving, and since half the costs they do pay are fixed or semi-fixed, the out-of-pocket costs of private transportation are only a penny or two higher per mile than those of public transportation—and private transportation is much faster and more convenient.

Rapid transit operates at speeds between 18 and 35 miles per hour—faster than buses, which average eight to 12 miles per hour

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in traffic—but typically slower than cars, which can usually average 35 miles per hour even at rush hour and take the driver almost door to door without the long walks, waits, and transfers typical of public transit. In normal urban service, which requires stops every mile or so for loading and unloading passengers, a train cannot exceed 35 miles per hour without exceeding the maximum acceleration and deceleration rates permitted for passenger comfort and safety. The time advantage of a BART train over a bus is not that the train's top speed is 120 and the bus's is only 55; it is that the train has its own exclusive track, while buses must suffer not only the inherent delays of linear mass transit, but also those of rush-hour traffic congestion. Cars suffer only the delays of congestion and can get their driver to work in most cities in one-half to two-thirds the time required by public transit, rapid or not.

In Los Angeles, for example, the average 10.5-mile commuting trip takes 25 minutes door to door by car and an hour by bus. For the car owner who has already absorbed substantial fixed costs for his car, the trip will cost an extra 37¢ in gasoline and oil, and, if he thinks about such things, 32¢ for tires and repairs, compared with a 25¢ bus fare. Thanks to a 15¢ to 30¢ bus fare subsidy, he would thus save 44¢ by riding the bus, but he would lose 35 minutes, worth $1.75 if his travel time is worth $3 an hour. This is a conservative reckoning, since the *working* time of the average Los Angeles commuter is worth about $6 an hour. Moreover, with his own car the commuter can stop on the way to or from work, can come and go on his own schedule, and can travel to places not well served by public transit. The Los Angeles affliction may be a disease to city planners, but there are many who love it, and, given existing alternatives, they have good reason to love it. Considering the choices available to them, it would seem irrational for most commuters *not* to use private transportation in preference to public.

The irrationality of our urban transportation system is not to be found in the consumer's choice between the options offered him, but in his leaders' tacit assumption that the only possible alternatives are to encourage private transportation with subsidized roads, or to encourage public transportation monopolies with subsidized tracks or operating funds. For more than a decade, a small band of economists has urged a different approach, which has never found its way onto a political agenda, nor gained more than a toehold in the planning literature. The central proposal, best expounded by Columbia economist William Vickrey, is a road user charge to flatten peak-load use and diminish smog pollution. A corollary proposal, best expounded by George Hilton and Ross Eckert, is to soften or eliminate the anti-jitney laws, which perpetuate expensive, inefficient transit and taxicab monopolies. These economists make four basic points: (1) Investment in public transit will be wasted if people do not use it; (2) investment in existing roads is largely wasted because we do not use them efficiently; (3) the main reason for these inefficiencies is our failure to charge users the full costs of their use; and (4) most users, and most of the general

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public, would be much better off if we did charge something closer to the full costs of road use.

A study now under preparation by the Institute of State and Local Government at Claremont Men's College for several California environmental groups suggests that Los Angeles area road users pay only about half the public costs of driving, impose smog damages about equal to what they pay in state registration and fuel taxes, and draw benefits from direct subsidies—road grants from general funds, police services, free use of dedicated public land for roads, tax exemption, etc.—roughly equal to what they pay in federal fuel taxes. Preliminary estimates in the study suggest that these hidden subsidies to road users may be on the order of $650 million a year, or $185 a year for every household in the Los Angeles Air Basin, $100 for every car and truck. By contrast, Los Angeles County's present subsidy to public transit amounts to about $5 per household per year in direct aid, and perhaps another $5 for the proportional share for buses of the hidden road use subsidies.

Even more striking are the study's findings of hidden subsidies given to certain road users at the expense of others. Heavy trucks are a familiar example of this, benefiting from heavy-duty expressway construction not needed by ordinary users but paid for by all users. But the subsidy in overbuilt roads for truckers is minor compared to the subsidy in overbuilt roads for ordinary rush-hour uses. In Los Angeles, as elsewhere, highways are built and expanded primarily to keep rush-hour congestion from becoming intolerable. Los Angeles roadbuilders have accommodated very rapid growth in rush-hour demand with remarkable success, keeping peak-hour access time equal to, or less than, what it was in the 1930's, but at a high cost—and only a small fraction of this cost is paid by peak-hour users through fuel and registration taxes.

William Vickrey once estimated that building the Shirley Highway to handle rush-hour traffic into Washington, D.C., cost $23,000 per car. The suburban commuter with a $30,000 house and a $3,000 car expected the public to match his investment with a two-thirds bonus of extra road. The Los Angeles study attempted no estimate for the costs of individual freeways, but it did find grounds to suppose that building for rush-hour demand costs about $450 million a year in the Basin, or $75 per vehicle, but benefits peak-hour road users (who drive 30 per cent of road mileage) with at least $250 worth of extra road per vehicle per year, on top of the $100 or so they already enjoy in direct general subsidies and free rights to pollute the air. The $450 million for peak-hour use amounts to three quarters of the annual state fuel tax and registration fees collected in the Basin, and more than half of annual state and federal road user taxes combined.

Despite these large investments for their benefit, rush-hour users have found that new freeways become saturated with traffic almost as soon as they are built. The Hollywood Freeway, built in 1954 to carry 100,000 vehicles a day, took only a year to attract 168,000

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vehicles a day. Los Angeles roads are saturated with traffic for the same reason that its air is saturated with smog: Those who cause pollution and congestion impose more costs on others than they incur for themselves, and hence they have no incentive to change their behavior. A driver's decision to enter a slowly moving line of cars may cost him an extra minute to get through the bottleneck, but it also costs every car behind him an extra minute. If the line behind him is 60 cars long, he imposes a total of an hour's delay on other drivers at only one minute's cost to himself. Similarly, the driver enjoys the full benefits of the trip as an individual but imposes the costs in air pollution on the public at large. In either case, though he may suffer from *other people's* smog and congestion, he has no good reason as an individual not to enjoy to the utmost the "free" use of scarce public resources (roads and clean air), as long as he profits from their use. Such "free" goods, like the medieval commons, are chronically overused because individuals reap the benefits of overuse personally, but share the costs with everyone else.

It is the commons problem which keeps congestion from deterring further traffic till delay has become inordinate, as in New York and Tokyo, and which makes impractical the suggestion of some anti-auto partisans that congestion would solve itself if we stopped building roads to alleviate it. Eventually congestion would level off, but long past the point where it should have leveled off for optimum use of the road. "Solving" road congestion by letting it build up till it reduces the road's carrying capacity—an effect called hypercongestion, which occurs, roughly speaking, when traffic is moving at less than two thirds of the maximum safe speed—is an irrational use of a scarce resource. Yet the costs of building roads in the most congested downtown areas have become almost prohibitive—$22 million a mile for New York's Cross-Bronx Expressway, $41 million a mile for Boston's Central Artery, $80 million a mile for Los Angeles' proposed Beverly Hills Freeway—and most cities have accepted hypercongestion as an inevitable depressant on road carrying capacity at the very times and places the capacity is most needed. In Los Angeles, this acceptance of congestion and hypercongestion as necessary facts of life constitutes yet another hidden subsidy to peak-hour road users, a free license to impose delay on others. At $3 per travel hour, this license is worth something like $40 to $50 a year to rush-hour drivers.

If the Los Angeles study's provisional estimates are close to correct, peak-hour road users enjoy about $400 a year worth of hidden subsidies, compared with perhaps $100 a year in open subsidies for bus riders. Since much of these subsidies is drawn from sales and property taxes, the funding is regressive in origin. It is also regressive in distribution, as the thinly subsidized transit users are predominantly poor and the lavishly subsidized commuters are predominantly well off. Seventeen per cent of Los Angeles households have no car. Households with less than $5,000 annual income, also about 17 per cent of Los Angeles area population, do only seven per cent of the driving. Of such poor families nationwide, only a

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third drive to work at all. Less than a fifth drive more than 10 miles to work. For richer families with more than $15,000 annual income these figures are almost reversed. Four fifths drive to work, and half drive more than 10 miles to work.

THE central flaw of our transportation financing system, however, is not its regressiveness but its wastefulness. Most people would be horrified if we undertook to give away other scarce public goods —water, say, or gas or electricity—as freely as we give away our roads and air. They rightly suspect that users, having no individual incentive to save such resources, would waste them, just as we now waste roads and air, and that they would wind up paying more as consumption subsidizers than they now pay as consumers. New York, for example, broke its "drought" of the early 1960's by metering water and charging for it by volume of consumption. New Yorkers thereupon fixed their leaky faucets and stopped using their toilets as flush-ashtrays and the "drought" ended. The Los Angeles study examines a recently developed technology which makes road use "metering" a practicable option, and finds from preliminary evidence that it offers the possibility of a radical improvement in transportation efficiency. It could: (1) flatten peak-hour road use; (2) cut peak-hour congestion and smog by 20 to 30 per cent; (3) get people to use carpools and public transit; (4) move all traffic, public and private, faster at rush hour; (5) permit buses, which are five or 10 times cheaper than rapid rail, to operate at almost equal speed; and (6) postpone or eliminate vast construction expenditures to alleviate peak-hour congestion.

According to the study, an Automatic Vehicle Identification (AVI) system could be installed in the Los Angeles Basin for $30 to $50 per vehicle, plus the equivalent of $25 per vehicle for a signal and monitoring system. Thus over the 15-year lifespan of the major components the system would cost about $5 per vehicle per year, not counting user charges. The system's basic components would be a radio transponder on every vehicle, with induction-loop interrogators on every freeway entrance and exit and around designated traffic zones on surface streets. These components are already in use on trucks and buses on at least one Eastern tollbridge. The proposed Los Angeles system would monitor about five sixths of the traffic in the Los Angeles Air Basin and submit a monthly bill to peak-hour and smog-hour users for at least part of the costs they now pass on to others.

Opinion surveys and studies of gasoline price elasticity indicate that for charges of 3¢ to 15¢ a mile the system could cut congestion and smog by about a quarter. Average charges, at a suggested 6¢ a mile for congestion and one to five mills per gram for certain smog pollutants, would be on the order of $6 per vehicle per month over a 10-year period, generating $400 to $500 million of revenue a year. Heavy users would of course pay more than this average charge, light users less. The proceeds could be substituted for regressive sales and property taxes now used to subsidize road users.

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Road user charges would shift the incidence of tax from those who own property and buy goods to those who drive when the roads and air can least stand it—but they need not increase the overall tax burden on the public.

Such a shift of incidence would benefit almost everyone. It would benefit public transit and carpools by providing an assured public demand and faster roads when demand is highest. It could generate more funds less regressively than existing taxes. It would clear the roads and air substantially, since 40 people in one bus use far less fuel, road space, and clean air than 40 people in 36 cars, the present use pattern. Poor people would pay proportionately less in sales and property taxes and get more for their money with road user charges. Rich commuters would pay more money, but they would gain faster access time, which the rich tend to value more than the relatively small charges involved, and which is now unavailable to anyone at any price during rush hour.

Roughly speaking, the gainers would be the three quarters of commuters who would continue to travel by their present modes of transportation, public or private. The potential losers would be an unknown fraction, possibly half, of those induced by user charges to stop driving at rush hour. Some of this last quarter of commuters could easily change times or modes of travel and still profit from the general reduction in social costs. Others, who cannot stand buses, carpools, or walking, or cannot use them easily, but "need" to commute long distances at rush hour and cannot afford the user charges, would lose from user charges until they could adjust their living and working habits to a transportation market that does not subsidize wasteful use. No doubt there are many such people in Los Angeles and elsewhere because we have subsidized them so long and lavishly; but it is not likely that they represent more than 10 to 20 per cent of the total commuting population. Ironically, though polls show that 80 per cent of Los Angeles residents are opposed to any further taxation or restriction of their driving, it appears that at least 80 per cent of them would be better off paying congestion and smog charges than they are now. This figure could approach 100 per cent with the passage of time, as more people adjust to the market.

AVI-based user charges offer three benefits applicable to all other cities and one whose major impact would be limited to the dozen or so West Coast and Rocky Mountain cities most affected by photochemical smog. The three universal benefits would be (1) speeding surface rush-hour traffic to the point where buses could match rapid rail, (2) generating enough demand to justify present or projected rapid rail systems, and (3) generating funds to pay for transit improvement. Rapid rail costs 10 times as much as buses, and it would not be much faster than buses if buses were not held up by rush-hour traffic. Unjamming roads with user charges would substantially equalize trunkline speeds of buses and rapid rail, and improve the speed of feeder lines, which are all-bus even in New York. For Los Angeles, this means that a $1-billion investment in buses over the

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next 10 years could buy substantially the same service as a $10-billion investment in rapid rail—resulting in a saving equal to twice the cost of the existing freeway system. Many other cities contemplating building rapid rail for faster service could realize comparable savings on a smaller scale. The main advantages of rail over buses, apart from speed, are higher capacity and lower operating costs at high demand levels. The demand level at which rail can match buses in cost per seat mile is commonly estimated at 12,000 trips per peak hour, though some post-BART Los Angeles estimates run as high as 40,000 trips per peak hour. Los Angeles has four corridors where demand exceeds 12,000, but none where it is as high as 40,000. These might justify a short downtown rail system, though not the proposed regional megasystem. In any case, the economic efficiency of a rail system would be much less doubtful with the higher demand levels that user charges can produce, but heavy transit investment by itself cannot. User charges could also generate funds for transportation improvements more productively and less regressively than existing tax sources.

Los Angeles, Denver, Honolulu, and other Western cities suffering from photochemical smog could enjoy the additional benefits of smog reduction from a system which can vary charges by weather conditions and time of day. Savings in reduced smog damage might be as high as $100 million a year in the Los Angeles Basin, enough to pay for the AVI system in five years. Road user charges offer cities like Los Angeles a highly efficient smog control mechanism compared to existing regulations, which are geared to the pace of the slowest and the strength of the weakest, and also compared to the Environmental Protection Agency's 1972 proposal to cut vehicular smog 55 per cent by rationing gasoline 82 per cent. User charges, by contrast, offer an 18 to 27 per cent cut in vehicular smog—plus a 20 to 30 per cent cut in congestion—for only a 10 to 12 per cent cut in driving.

Suggested surrogates for user tolls, such as parking fees, ownership restrictions or charges, fuel rationing, and flat mileage charges, are too crude to do the job. Parking fees would miss 90 per cent of the Los Angeles Central Business District traffic, which is merely passing through. Restricting ownership does not necessarily restrict use, since it falls equally on lightly used and heavily used vehicles. Mileage charges do not discriminate between harmless mileage (driving from Los Angeles to Las Vegas in mid-winter) and harmful mileage (driving in the Basin at rush hour on a smoggy summer day). Even fuel taxes, which can conserve energy and could be varied by area, season, and dirtiness of car, to control smog, cannot be varied by time of day or specific area to control congestion or put extra pressure against smog on the worst hours and days.

THE problem with road user charges is that they are as unpopular politically as they are sound economically. Conservatives oppose them for contesting our right to drive. Some liberals oppose them because they look regressive, others because they threaten

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privacy, still others because they look too "permissive" toward cars and too restrictive of rapid rail. Environmental militants oppose them as immoral "licenses to pollute." The general public opposes them for many of these reasons, and also out of a general distaste for any new taxes.

Most of these objections are based more on a desire to have our cake and eat it than on a serious review of the alternatives. Conservatives like the freedom to drive, but they do not like subsidized waste at their own expense. As for the liberal objections, user charges would actually be a progressive tax compared to present methods of road financing (and even if they were not, we could find better subsidies for the poor than a free license for themselves and everyone else to dirty the air and clog the roads). Neither rapid rail nor any other transportation technology should be treated as an end in itself. And AVI monitors are no more of a threat to privacy than many other information sources that we accept without a murmur: credit records, bank and tax statements, phone bills, passports, forms, fingerprints, license plates. All of these surveillance aids could be abused, but we accept them nonetheless because most of us find that their benefits in convenience and public safety outweigh their risks to privacy. Finally, the environmentalist objection to user charges as "licenses to pollute" ignores the fact that attempts to outlaw some forms of pollution will never succeed because they would have too harsh an impact on everyday economic activity. Hence, the practical alternative to taxing polluters is to go on letting them pollute for free.

Nobody wants to pay for something he now gets for free—unless he is made aware that road uses which look free are actually very expensive, that he as a taxpayer foots the bill, and that this bill could be much reduced by charging users. The final arbiters of our urban transportation future will be the taxpayers who are now supporting the present system. They are used to the pricing system as the best way to distribute water, gas, electricity, and telephone service with a minimum of waste. Clean air and public roads are no different from these other public resources. If we make them a commons, we waste them. If we charge for use, we waste far less, and we pay less for the resource. It is much too early to tell whether user tolls will ever prevail in Los Angeles, let alone the rest of the country, but it is not too early to wonder why user charges, which offer to save billions of dollars worth of smog, congestion, and unnecessary investment have not even been given a place on the regional transportation agenda. Los Angeles voters deserve a better choice than they were offered in November, and so do taxpayers in other cities.

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CURRENT READING

Demography and Income Distribution

In the Fall 1974 issue (No. 37) of *The Public Interest,* Irving Kristol pointed out how the traditional division of our population into income classes—"the highest fifth," "the lowest fifth," etc.—can exaggerate the unequal distribution of income, because it takes no account of the age composition of these various fifths. A married graduate student with an income of $5,000 annually (supplemented, perhaps, by parental generosity) or a 75-year-old couple who own their house, are covered by medicare, and have an annual income of $5,000 a year, are not in the same position as a working adult male who heads a family and makes something like that same income.

Since the publication of that article, several correspondents have written in to point out other factors which make income distribution seem statistically more unequal than, in sociological reality, it is. Thus, the proportion of the population which is over 65 has increased, since 1930, from 5.5 per cent to over nine per cent. Because of social security, many more of these elderly can afford to have their own households instead of living with their children, as used to be the case. And this, in turn, creates many more low-income households on the charts. Were these elderly people to share accommodations with their children, there would be a statistical jump in the household income. In short, bare statistics on household income may mislead. Not all low-income households are "poor," in the conventional sense of the term, just as not all middle-income households are necessarily "affluent." The size and composition of the household have their own importance, and a society that generates more households in proportion to population will also generate an independent effect on income distribution. This last fact can be testified to by anyone who has been through the divorce courts.

It has also come to our attention that this aspect of the matter had been examined carefully by Professor Simon Kuznets of Harvard, in a paper written in 1972 and recenty published in *Essays in Honor of Jan Tinbergen,* Vol. 3 (White Plains, N.Y.).

Mr. Kuznets' paper takes as its point of departure the fact "that differences and changes in the structure of family units have direct bearing upon the distribution of income." He then proceeds to analyze the data for family income distribution as it applies to three particular subgroups: all families with heads under 25, all families with heads aged 65 or over, and families with female heads aged 25 through 64.

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Mr. Kuznets then presents a detailed chart which shows that the income per family of the three groups is clearly below the national average—"by proportions ranging from about 33 per cent for the group with the young heads to over 40 per cent for the families with female heads." Moreover, since 1947 the percentage of each of these subgroups in the total of all families has risen: Families with young heads from five to 6.5 per cent of all families; families with heads 65 and over from 12 to 14 per cent; families with female heads aged 25 to 64 from seven to almost eight per cent. The total for the three groups rose from 24.2 per cent to 28.5 per cent, "a substantial rise over a relatively short period."

Not surprisingly, as a result of these demographic changes, each of these subgroups came to constitute a larger percentage of the "lower fifth" of the income distribution. Thus, the families with young heads increased from 6.2 per cent of the "lowest fifth" in 1947-52 to 10.4 per cent in 1968. And with all three groups drifting downward in the family income distribution during this period, the average income of families in these three groups naturally declined in relation to the national average family income. For example, whereas families with young heads had 73 per cent of the national family average in 1947-52, this had declined to 66 per cent in 1968; the decline for families with old heads was from 75 per cent to 64 per cent; and for families with female heads, the figure declined from 69 per cent to 57 per cent.

What it comes down to is that the increasing proportion of aged people in our population (and the increasing proportion of *very* old people within this group), together with an increase in the marriage rate of young people during these decades, together with the increasing incidence of divorce and broken homes—all this resulted in the formation of households with low incomes. But even so, real income of these three groups actually grew substantially during the period 1947-52 to 1968. Only, this growth in real income lagged behind that of the rest of the population.

Mr. Kuznets concludes his analysis by estimating the national distribution of income, over this period, if one *excludes* these three groups. He discovers that, taking those families with male heads aged 25-64, the shares of the "lowest fifth" rose from 5.8 per cent to 7.3 per cent; that of the "second fifth" rose from 12.9 per cent to 13.6 per cent; while that of the top five per cent dropped from 16 per cent to 12.8 per cent. In short, once the effects on the income distribution related to demographic changes are separated out, the data reveal a marked trend toward greater equality of incomes.

The Media Misled

Some of our readers may remember having encountered various reports this past summer of large numbers of our urban poor resorting to pet foods for nourishment. This fact would certainly have been shocking if it were true—but it now appears that the story owed its existence entirely to unsubstantiated claims and the gullibility of the

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media. The investigative reporting of Robert J. Samuelson (in the *Columbia Journalism Review*, September/October, 1974) reveals how the media were taken in:

> *In the world's wealthiest country, as much as one-third of the dog and cat food sold in city slums is being eaten by humans, a panel of nutrition experts reported today.*
>
> *United Press International, June 19, 1974.*

It's little wonder that UPI plucked this charge from a 178-page report on government food programs. The vision of millions of people eating dog food is an offensive spectacle. Columnist Jack Anderson took the story one step further: "My associate Les Whitten tried some of the pet foods. . . . He found the canned pet foods, though edible, had a rank taste which made him queasy. The dry foods, sold in bulk quantities, were coarse tasting and hard to swallow. When he mixed them with water and salted them, they were at least palatable. Peanut butter or cheese spread made dog food easier to get down, he found. But the poor can seldom afford these tasty spreads." A report that suggests millions of poverty-stricken Americans are eating pet food is a media "natural." Not only does it encourage editors to salivate over the melodrama of a family dining on Gravy Train laced with Ken-L-ration; it also appeals to the better side of human nature because it justifies a "good cause"—feeding the poor. But it is precisely such a story—in which reporters are fed dramatic conclusions wrapped in authority and inspiring sympathy—that should occasion journalistic wariness. Instead, such stories are precisely those in which reporters are most likely to surrender their skepticism.

In this case, unfortunately, the media was misled by a claim that had been repeated so often by so many people that it was accepted as verified. The media had transformed casual conversation and mere guesswork into hard fact.

A "panel of experts" was the source of the story. On page 20 of their report, "National Nutrition Policy Study, Report and Recommendation —VIII" prepared for the spring hearings of the Senate Select Committee on Nutrition and Human Needs, they wrote: "Experts at the Center for Science in the Public Interest estimated that as much as one-third of the pet foods sold in ghetto areas were being used for human consumption; for areas with high proportions of elderly poor, the estimates were even higher." Ronald Pollack, chairman of the committee's panel of hunger experts and director of the Food Research and Action Center in New York City, says in support of the report's claim: "We know that a lot of people eat dog food." However, the claim that "one-third of the dog and cat food sold in city slums," Pollack said later, isn't verifiable. But he felt the panel wasn't to blame for the unverified assertion—it was only quoting another source.

A check with the source—the Center for Science in the Public Interest, a small public interest group in Washington—reveals, well, embarrassment. About a year earlier, one of the center's co-directors, Michael Jacobson, had written a short book, "Nutritional Scoreboard: Your Guide to Better Eating." In the meat section, Jacobson rated the

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nutritional value of Alpo dog food. Actually, Alpo did pretty well. With 30 "nutrition" points, it had finished just behind Navy beans (32), pot roast (33), and hamburger (34), and way ahead of McDonald's small hamburger (18), hot dogs (6), Spam (4), bacon (4), and bologna (2).

Following the book's publication in July, 1973, Jacobson was interviewed by a Scripps-Howard reporter. The last line of the article, published in the Washington *Star-News* on July 25, 1973, said: "Dog food is included, Jacobson says, because one-third of dog food sold in ghettos is reportedly bought by the poor for themselves." Jacobson says he doesn't recall having made the estimate, but concedes that he might have.

Seven months later, the estimate surfaced again, this time in the official staff report from the Senate Select Committee on Nutrition and Human Needs. The estimate made its most recent appearance when the "panel of experts" put the same information into its hunger report.

The question, of course, is whether the estimate is accurate. According to the Center for Science in the Public Interest, not only does no documentation exist to support the claim, but it's probably impossible to get any—people won't admit they eat pet food, even if they do.

Crime and Punishment in the Classroom

The question whether punishment deters crime was answered affirmatively by Gordon Tullock in the Summer 1974 issue (No. 36) of *The Public Interest.* Although Tullock's concern was with the criminal justice system, independent research which supports his conclusion was done in the classroom by Charles Tittle and Alan Rowe. As reported in *Change* magazine (April 1974), they used three sociology classes as subjects of an experiment to evaluate the relative effectiveness of simple trust, a moral appeal, and a punishment threat in achieving classroom honesty:

> The experiment consisted of organizing each of the three classes around a series of eight weekly quizzes worth 10 points each. The quizzes were administered during the last 15 minutes of a class period and were collected as the students left. After class, the scores were recorded by the instructors (who were also the experimenters) but no marks were made on the students' papers. At the beginning of the next class period the quizzes were returned and the students were told to calculate their own grades. A difference between the score obtained by the instructor and the score which the student calculated was used as an indication of cheating. . . .
>
> In the control group no mention was made of cheating, the necessity for honesty, or of the possibility of being caught or punished. . . . The two test groups were exposed to this same procedure for three quizzes; but before they graded their fourth quiz, the classes were reminded that they were being trusted to grade their quizzes honestly and that they had a moral obligation to be accurate. No other mention was made of cheating until the seventh quiz was returned. At that point the students were told that there had been complaints about cheating, so it was

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necessary for the instructor to spot check some of the quizzes for accuracy. When the eighth quiz was returned, the students were told that the spot check had revealed a case of cheating and that the person was to be penalized (in fact, nobody was penalized). . . .

By comparing the percentages of cheating opportunities taken by students at various points in the test classes with the figures for the control group, it is possible to ascertain the effects of the three approaches for controlling cheating. . . . [The data] show, first, that the incidence of cheating under conditions of "trust" was astonishingly high. Students who, with no specific moral appeal, were trusted to be honest actually cheated about one third of the time (quizzes 1-6 for groups A and B, and quizzes 1-8 for the control group). Clearly, simple trust is not enough. The data show further that emphasizing the moral principle involved in grading the quizzes was also ineffectual. A moral appeal had no effect whatsoever in reducing the incidence of cheating. Consider, for example, test group A. Prior to the moral appeal, the students took 31 percent of all opportunities to cheat, but after the moral appeal this percentage actually rose to 41 percent.

The data do demonstrate that the threat of being caught and punished had a substantial effect on cheating. In test group A, the cheating level of 34 percent was reduced to 12 percent by the threat of a spot check and the ultimate announcement of a penalty for a "cheater."

Women's Liberation Soviet Style

Because of the high proportion of its women who are employed and their strong representation in seemingly elite fields like medicine, the Soviet Union is sometimes regarded as a model for the equal treatment of women in the labor market. In fact, however, Soviet workingwomen are far from enjoying economic parity with workingmen, as Victor Baras points out in the October 1974 issue of *Current History:*

Women make up over 53 percent of the Soviet population and about half the labor force. Eighty to 85 percent of the women of working age are employed, including 60 percent of the mothers of children under three years of age.

There are substantial numbers of women in most occupations, but the proportion of women is higher in jobs with lower pay and lesser responsibility. . . . There is an almost perfect *negative* correlation between the average wage for a given sector of the economy and the proportion of women workers in that sector. The worst paid sector, public health and physical education (listed as a single category in Soviet statistics), is the sector with the highest proportion of women, 85 percent. . . . Women are very well represented in the ranks of unskilled manual labor, and they constitute most of the agricultural field hands. In 1970, women comprised 58 percent of the kolkhoz population. Most migrants from the city to the country are young men.

There are not enough child care centers to provide for all working mothers. Large modern factories, of the kind the Western visitor is like-

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ly to see, generally have such facilities, but about one-third of working mothers with children under the age of three must leave their jobs temporarily. One-third more have their children taken care of "in the family"; ordinarily this means care by a grandmother, a practice supported by tradition and reinforced by the acute housing shortage that forces many families to include three generations in an apartment. Only about one third of working mothers have access to a day care center. . . .

Despite repeated "educational" campaigns in the media, Soviet men still expect their wives to do the housework. This means not only cooking, cleaning, and child care, but shopping, which, in the U.S.S.R., is a time-consuming activity requiring endless hours of standing in line. In the words of a Soviet source, "[E]mployed women have what is called a second working day. . . . As a result, the employed mother has . . . one-half to one-third the free time available to a man." And since the employed woman is less able to devote herself to professional advancement, "despite the abolition of discrimination in pay, women at many enterprises earn less, on the average, than men." The pay differential amounts to at least 20 percent. The "physical and psychological fatigue" of the working mother is cited as a disturbing influence in the home and a major cause of divorce.

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